

Individualized Education Program:

PURPOSE

PROCESS

PRODUCT

& Relationship to
Least Restrictive
Environment

Acknowledgements:
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Office of Special Needs

With Support
R I Technical Assistance Project

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Summary Highlights

Individualized Education Programs: Purpose, Process, Product and Relationship To Least Restrictive Environment

The Individualized Education Program (IEP) Network has revised the manual titled, Individualized Education Programs: Purpose, Process, Product and Relationship to Least Restrictive Environment, after reviewing four information sources:

- 1) The Individuals with Disabilities Education Act, Amendments of 1997
- 2) *The Rhode Island Board of Regents for Elementary and Secondary Education Regulations Governing the Education of Children with Disabilities* (2000)
- 3) The Federal Register, Part II, March 12, 1999
- 4) Various manuals developed by the Rhode Island Department of Education (see list under Related Information p.12)

The following summary represents the areas that have been identified as needing particular attention. The page numbers of each statement indicate where information on this topic can be found in the manual:

- An agency representative must be present at the IEP meeting. The agency representative must be someone who can provide or supervise specially designed instruction, is knowledgeable of the general curriculum, and can ensure that services set out in the IEP will be provided. (pp.36-37)
- The parents participate in the conceptual and written development of the IEP, including placement decisions. (p.34)
- A child with a disability should attend an IEP meeting when it is appropriate to do so. Students at the secondary level should attend. (p.37)
- Statements of present level of performance must be based on identified strengths and needs, be written in objective, measurable terms, and include a description of the effect of the disability on the student's involvement and progress in the general curriculum. If test scores are used they must be written in language all participants can understand. (pp.44-45)
- For each present level of performance there must be an annual goal reflecting where the student is expected to be in one year's time (p.46). Information on the IEP related to this goal statement must include:

- Short term objectives or benchmarks (p.47)
- Criteria (pp.47-48)
- Evaluation procedures (p.48)
- Evaluation schedule (p.48)
- Progress rating (pp.48-49)
- Consideration of Extended School Year ESY (p.52)
- Provider, service, location, supplementary aids and services and supports to school personnel (pp.54-55)
- Participation on state wide testing (pp.59-62)
- Accommodations and modifications in instruction and on state wide testing (pp.62-63)
- Alternate assessment (p.61)
- The student with a disability must receive services to meet identified needs in the least restrictive environment. These services must include modifications needed to accommodate the student within the general classroom. (pp.55-58)
- Beginning no later than age 14 and annually thereafter, a statement of transition service needs, that focuses on the student's course of study, must be included in the IEP. (p.44)

Foreword

Purpose:

This manual outlines the process used to develop the specially designed instruction required to meet the unique needs of each student with a disability, which is the Individualized Education Program (IEP). The IEP documents the result of this process. Since the IEP process begins with an individual identifying a concern with a child and referring the child to a school based team, the roles and responsibilities of the various teams (e.g. Team of Qualified Persons, Evaluation Team, and IEP team) that will be involved in the IEP process, need to be clarified. Therefore, this manual does not just address the IEP document itself. It addresses the entire process, starting from the point a teacher or parent first identifies a concern with a student's performance or behavior in the general education classroom or other natural setting, and the roles of the various teams as the student goes through the process. All the information gathered by teachers, parents and school personnel from the first point of concern will be useful to the IEP meeting participants in developing, monitoring and revising a program for the student in the least restrictive environment. Emphasis is placed on programs, which enable students to be served in the general education classroom or other natural settings with accommodations, modifications, and supplementary aids and services as needed.

A flow chart of the IEP Process from the first point of concern through the review and revision process is included in Table I.

Related Information:

Additional sources of information related to the IEP process are to be found in the following documents available from the Rhode Island Department of Education (RIDE) except as noted below:

- Students with Attentional Disorders: A Guide for Schools and Families (2001)
- Teacher Support Team SALT Resource (2001)
- Teacher Support Team SALT Guide (available December 2001)
- The training manual for the Learning Disability Identification Process (revised edition available in 2002)
- The Section 504 Guidelines (xxxx)
- Transition Resource Directory (available in 2002 from the UAP at Rhode Island College)
- Extended School Year: Frequently Asked Questions (2001)

- Requirements for Student Participation and Assessment Accommodations (updated annually)
- Alternate Assessment Manual (2001)
- The Individualized Education Program Guidebook: Directions for Completing the IEP Form (2000)

This latter document will be referenced throughout this manual. This manual is not intended to replace the regulations. The text describes the IEP process, but it is important to refer to the regulations for specific language.

Format for the Manual

There are three main types of print in this manual.

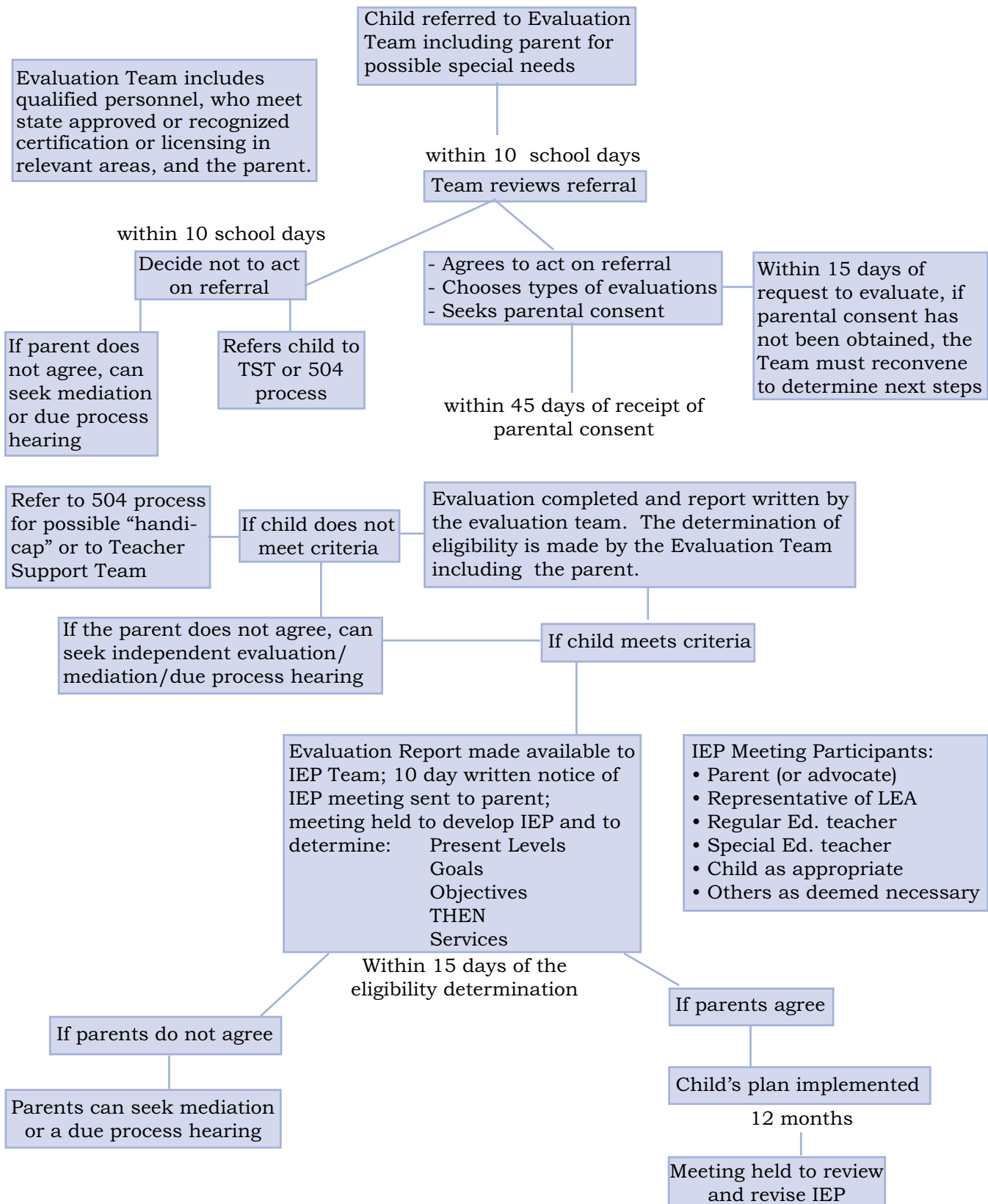
The first type is similar to the print you are reading and is the narrative and question and answer component.

The second type identifies direct citations from the RI Regulations of the Board of Regents for Elementary and Secondary Education Governing the Special Education of Children with Disabilities. *They have been included at various points throughout the document to provide essay reference to the citations in that section of the narrative.*

The third type provides direct quotations from the Federal Register, Friday, March 12, 1999. This was issued by the federal government and provides interpretations of the regulations (IDEA Amendments of 1997) as they pertain to IEPs among other areas.

The school district shall document a history of attempted classroom interventions before referring the student for a special education evaluation. This process does not prohibit direct referral for a special education evaluation at any time by a parent, teacher or another individual.

**TABLE 1
THE IEP PROCESS**



Chapter One Introduction to the Individualized Education Program (IEP)



1. Introduction to the Individualized Education Program (IEP)

The Individual with Disabilities Education Act (I.D.E.A.), formerly known as PL 94-142, requires that all students with disabilities in need of special education services be provided with free appropriate public education designed to meet their unique needs. The cornerstone of this provision is the development and implementation of the Individualized Education Program (IEP). The IEP serves as a written agreement between the parents and the school system. According to the regulations, the IEP must be developed at a meeting at which parent and school personnel *jointly* make decisions about the student's program, and must be reviewed and revised at least annually.

The IEP serves a number of purposes, such as providing a vehicle for communication, problem resolution, and compliance. It also provides goals and objectives based on the general curriculum to guide the special education services to be provided in the least restrictive environment and outlines the type and amount of such services. Although the IEP itself consists of numerous parts the goals are considered the foundation of the plan and should serve as a blueprint for the student's instructional program. The IEP is a necessary resource for all teachers who are responsible for implementing the IEP and planning daily, weekly, and monthly instructional activities for the student with a disability.

The IEP should not be regarded as just a compliance document. Administrators and IEP team members must remember that it takes time to develop an appropriate IEP that can guide instruction.

The IEP process provides a perfect vehicle for both activities. As such the IEP gives the service providers the counsel and expertise of the professionals and parent(s) who assisted in developing a set of services that will provide educational benefit to the student with a disability in the least restrictive environment. School districts must recognize the inherent requirement of planning time, and make provisions for such.

After completion the IEP should be shared with all those responsible for implementing it so that they can be familiar with the student's unique needs and how these needs influence instruction within the general curriculum. Confidentiality of the IEP and its contents must be maintained. The IEP should be continually monitored, and must be reviewed and revised annually, or sooner if needed.

** The text of this manual describes the complete IEP process but it is important to refer to the regulations for specific language.*

300.341

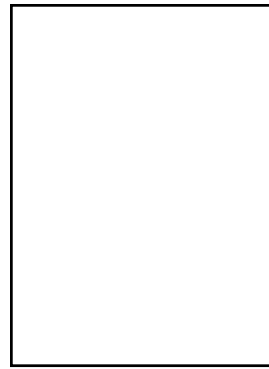
Responsibility of LEA and other public agencies for IEPs.

- (a) the LEA –
 - (1) Shall develop and implement an IEP for each eligible child with a disability served by that LEA; and
 - (2) Shall ensure that an IEP is developed and implemented for each eligible child placed in or referred to a private school or facility by the LEA.
- (b) Paragraph (a) of this section applies to –
 - (1) The State Agencies involved in providing direct services to children with disabilities in accordance with these regulations. *RI Regs. p. 37*

300.342

When IEPs must be in effect.

- (a) General. At the beginning of each school year, each LEA shall have an IEP in effect for each child with a disability within its jurisdiction.
- (b) Implementation of IEPs. Each LEA shall ensure that-
 - (1) An IEP –
 - (i) Is in effect before special education and related services are provided to an eligible child under these regulations, and
 - (ii) Is implemented as soon as possible but no later than ten (10) school days following the IEP meeting. *RI Regs. p.37*



2. The IEP Process: Referral

II.1

What is the process for developing an IEP?

The process for developing the IEP begins at the point when a student is referred for consideration as a student with a disability. Some students initially referred do not ultimately require an IEP. For those who do, the full process is listed in Table 1. Each step will be discussed below and in subsequent chapters.

II.2

What happens during the referral phase?

If a parent, teacher, or other professional involved with a student suspects a student may have a disability, the student is referred to the person or office in the district designated to act upon the referral. Although this varies from district to district, the referral is often received by the Director of Special Education or the building principal at the elementary level, or the Director of Guidance at the secondary level. Individuals can contact the Special Education Office within their districts to determine the specific designated person/office. Once the designated person receives the referral, it must be forwarded to a team consisting of qualified professionals and the parent, referred to as the Evaluation Team, within 10 school days of its receipt.

300.531

Initial Evaluation.

(a) Each LEA shall ensure that:

- (1) Within ten (10) school days of the receipt of a referral for special education services a team of qualified professionals and the parent that includes the individuals described in 300.344 and other qualified professionals, as appropriate, known as the Evaluation Team, meet to determine if a special education evaluation is needed. *RI Regs. p.73*

This Evaluation Team shall review the information provided and determine if an evaluation is required. If the Evaluation Team decides this is the case, it will decide what evaluations are appropriate to the student's needs. The districts must provide the parents with procedural safeguard. It is also recommended that the district provide the parents information on the parent advisory committee.

300.503

Prior notice by the LEA; Content of notice.

(a) Notice.

- (1) Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time (ten school days) before the LEA-
 - (i) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or

- (ii) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

- (2) If the notice described under paragraph (a)(1) of this section relates to an action proposed by the LEA that also requires parental consent under 300.505, the LEA may give notice at the same time it requests parent consent.

(b) Content of notice. The notice required under paragraph (a) of this section must include –

- (1) A description of the action proposed or refused by the LEA;
- (2) An explanation of why the agency proposes or refuses to take the action;
- (3) A description of any other options that the agency considered and the reasons why those options were rejected;
- (4) A description of each evaluation procedure, test, record, or report the LEA used as a basis for the proposed or refused action;
- (5) A description of any other factors that are relevant to the LEA's proposal or refusal;
- (6) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and
- (7) Sources for parents to contact to obtain assistance in understanding the provisions of this part.

(c) Notice in understandable language.

- (1) The notice required under paragraph (a) of this section must be –
 - (i) Written in language understandable to the general public; and
 - (ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
- (2) If the native language or other mode of communication of the parent is not a written language, the public agency shall take steps to ensure
 - (i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
 - (ii) That the parent understands the content of the notice; and
 - (iii) That there is written evidence that the requirements in paragraphs (c)(2)(i) and (ii) of this section have been met

300.505

Parental consent.

(a) General

- (1) Subject to paragraphs (a)(3), (b) and (c) of this section, informed parent consent must be obtained before –
 - (i) Conducting an initial evaluation or reevaluation; and
 - (ii) Initial provision of special education and related services to a child with a disability.

300.505(a)(3)

Parental consent is not required before –

- (a) Reviewing existing data as part of an evaluation or reevaluation; or
- (b) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children. *RI Regs. p.56-58*

If there is disagreement concerning the proposed evaluations, the parent or the district may request mediation and/or a due process hearing to resolve the difference.

300.126

Procedures for Evaluation and Determination of Eligibility.

The LEA must have on file with the SEA and for public review, policies and procedures that ensure that the requirements of these regulations are met. *RI Reg. p.24*

If the Evaluation Team determines that an evaluation is not necessary, it must also notify the parent of its decision and its reasons for it, in writing within ten (10) school days. If the parent does not agree, then s/he may request mediation and/or a due process hearing to resolve the difference. The Evaluation Team should also consider a referral to the district's 504 process and procedure.

300.531 (a)(ii)

The initial evaluation (or re-evaluation) shall commence no later than ten (10) school days after the receipt of

parental consent to conduct such an evaluation. If the parent does not notify the LEA within five (5) school days of their consent to evaluate, the team must document its efforts to obtain consent. If the LEA has not obtained parental consent to evaluate within fifteen (15) school days of the request to evaluate, the Team must reconvene to consider what action the LEA will take including, (as appropriate) the requirements described in 300.505(b) and (c), 300.345(d). *RI Regs. p.73*

II.3

Who are the members of the Evaluation Team?

The Evaluation Team shall be comprised of the following individuals:

- Parents of the child
- Regular education teacher of the child
- Special education teacher
- LEA representative
- Individual who can interpret instructional implications of evaluation results
- Other individuals who have knowledge or expertise regarding the child
- Other qualified professionals as appropriate

300.532

(a) In addition, when recommended by the evaluation team including the parent, specific assessments shall be required in order to determine certain disabilities. These disabilities include:

- (1) *Orthopedic Impairment.* An assessment by a registered physical and/or occupational therapist under the direction of a licensed physician.

- (2) *Speech, Language or Hearing Disorder.* An audiological assessment administered by a licensed audiologist, an otological assessment administered by licensed otologist, and /or a speech and language assessment administered by a speech/language pathologist.
- (3) *Visual Impairment.* An assessment including the exploration of the need for low vision services, examination of mobility and orientation skills, and visual communication skills.
- (4) *Mental Retardation.* An adaptive behavior assessment and a sociological assessment.
- (5) *Emotional Disturbance.* A specific clinical psychological or psychiatric assessment must be conducted for a student to be identified as having an emotional disorder. A functional behavioral assessment and a sociological assessment are also required.
- (6) *Specific Learning Disability.* An assessment that meets the requirements of sections 300.540-543. *RI Regs. p.75*

II.4

What are the procedures required for a student suspected of being a student with a specific learning disability?

If it is suspected that the student has a specific learning disability, the Evaluation Team must include the following individuals:

1. The parent
2. The student's regular education teacher
3. At least one person qualified to conduct individual diagnostic exams, such as a school psychologist, speech-language pathologist, or remedial reading teacher.
4. An LEA representative

The following evaluations will be required to identify a specific learning disability

1. An evaluation to determine ability level
2. Evaluations to determine achievement levels in the areas of the student's difficulty, which may include one or more of the following areas: oral expression, listening comprehension, written expression, basic reading skills, reading comprehension, math calculation and math reasoning.
3. Other evaluations as needed depending on the needs of the student.

For a full description of the evaluation process for students with disabilities refer to the training manual for the *Learning Disability Identification Process* published by the Rhode Island Department of Elementary and Secondary Education.

300.540

Additional team members.

The determination of whether a child suspected of having a specific learning disability is a child with a disability, must be made by the child's parents and a Team of qualified professionals which must include –

- (a)
 - (1) The child's regular teacher; or
 - (2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or
 - (3) For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and
- (b) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech – language pathologist, or remedial reading teacher.

300.541

Criteria for determining the existence of a specific learning disability.

- (a) A Team may determine that a child has a specific learning disability if –
 - (1) The child does not achieve commensurate with his or her age and ability levels in one or more of the areas listed in paragraph (a)(2) of this section, if provided with learning experiences appropriated for the child's age and ability levels; and
 - (2) The Team finds that a child has a severe discrepancy between achievement and intellectual ability in one or more of the following areas;
 - (i) Oral expression.
 - (ii) Listening comprehension.
 - (iii) Written expression.
 - (iv) Basic reading skill.
 - (v) Reading comprehension.
 - (vi) Mathematics calculation.
 - (vii) Mathematics reasoning
- (b) The team may not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of –
 - (1) A visual, hearing, or motor impairment;
 - (2) Mental retardation;
 - (3) Emotional disturbance; or
 - (4) Environmental, cultural or economic disadvantage.

300.542 Observation.

- (a) At least one team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting.
- (b) In the case of a child of less than school age or out of school, a team member shall observe the child in an environment appropriate for the child of that age.

300.543 Written report.

- (a) For a child suspected of having a specific learning disability, the documentation of the team's determination of eligibility, must include a statement of –
 - (1) Whether the child has a specific learning disability;
 - (2) The basis for making the determination;
 - (3) The relevant behavior noted during the observation of the child;
 - (4) The relationship of that behavior to the child's academic functioning;
 - (5) The educationally relevant medical findings, if any;
 - (6) Whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services; and
 - (7) The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.

- (b) Each team member shall certify in writing whether the report reflects his or her her conclusion. If it does not reflect his or her conclusion, the team member must submit a separate statement presenting his or her conclusions. *RI Regs. pp.77-79*

II.5

What should the relationship be between the Evaluation Team and the parent and the Teacher Support Team (TST)?

If during the review of the referral the Evaluation Team determines that sufficient classroom interventions have not been attempted or documented, the team may request additional information before determining whether or not the student requires an evaluation.

The information gathered during the Teacher Support Team (TST) process is particularly helpful to the Evaluation Team and, later, the IEP team in determining:

- a) the student's strengths and needs
- b) what interventions and modifications have or have not been effective and to what degree
- c) if all reasonable accommodations have been implemented within the regular classroom or other natural setting
- d) parental involvement throughout the process
- e) if a special education evaluation is indicated, what evaluations would be appropriate.

II.6

What happens if after considering the referral the Evaluation Team determines that the student does not require an evaluation for special education?

If the Evaluation Team determines that the student does not require an evaluation for special education, they should notify the parent of the decision within ten (10) school days and they should consider one or more of the following options:

- a) forward the team's findings to the TST.
- b) forward the team's findings to the district's 504 process

Often, the student has been referred because he/she is experiencing learning and/or behavior problems in the classroom. The TST may provide the teacher with additional support if warranted. Also, if the Evaluation Team determines that the student does not require an evaluation, it should be aware that the student might be considered "handicapped" under Section 504 and refer the student to the school system's Section 504 process for consideration.

As noted above, if the parent does not agree with the Evaluation Team's decision not to evaluate, he/she can request mediation and/or a due process hearing to resolve the disagreement.

Chapter Three
The IEP Process: Evaluation and
Determination that the student
has a Disability and equires
Special Education

3. The IEP Process:
Evaluation and
Determination that the
student has a Disability
and requires Special
Education



III.1

What is the Process for an initial evaluation?

300.531
Initial evaluation.

- (a) Each LEA shall ensure that:
- (1) within ten (10) school days of the receipt of a referral for special education services a team of qualified professionals and the parent that includes the individuals described in 300.344 and other qualified professionals, as appropriate, known as the Evaluation Team, meet to determine if a special education evaluation is needed.
 - (2) The initial evaluation (or re-evaluation) shall commence no later than ten (10) school days after the receipt of parental consent to conduct such an evaluation. If the parent does not notify the LEA within five (5) school days of their consent to evaluate, the team must document its efforts to obtain consent. If the LEA has not obtained parental consent to evaluate within fifteen (15) school days of the request to evaluate, the Team must reconvene to consider

what action the LEA will take including, (as appropriate) the requirements described in 300.505(b) and (c), and 300.345(d).

(iii) A full individual initial evaluation is conducted before the initial provision of special education and related services.

(b) Within forty-five(45) school days of receipt of parental consent to an initial evaluation:

(i) the child is evaluated; and

(ii) a written report of the evaluation team is made available to the LEA and the parent(s); and a team of qualified professional and the parent(s) of the child meet as an eligibility team to determine whether the child is a child with a disability and in need of special education and related services .

(c) If determined eligible under this part, an IEP meeting is conducted and an IEP is developed and special education and related services are made available to the child in accordance with an IEP within fifteen(15) school days of the eligibility determination and not more than sixty (60) school days of the receipt of parental consent to conduct the initial evaluation.

(d) If it is determined that an initial evaluation is not needed, the evaluation team shall consider referring the student's case to either the LEA's teacher support team or the LEA's section 504 team. (Section 504 of the Rehabilitation Act of 1973). The parent(s) must be notified of the decision of the team not to evaluate within ten (10) school days. *RI Regs. p. 73*

III.2

What happens if the parent refuses consent for initial evaluation?

If a parent refuses consent the LEA should: 1) continue to communicate with family to try to resolve the family's concerns; and 2) consider whether or not the pursuit of mediation or a due process hearing would be appropriate.

300.505 Parental consent.

(b) Refusal. If the parents of a child with a disability refuse consent for initial evaluation or a reevaluation, the LEA may continue to pursue those evaluations by using the due process procedures or the mediation procedures if appropriate. *RI Regs. p.58*

III.3

What are the general procedures followed to ensure an appropriate evaluation for special education?

Each LEA shall ensure evaluation materials and procedures meet the following minimum requirements within 45 school days of parental consent to evaluate:

- Not racially or culturally discriminatory
- Administered in the student's native tongue or mode of communication
- Are not merely a measure of the student's English language skills

- Use a variety of assessment tools and strategies; including information provided by the parent, and information that would evaluate the ability of the student to make progress in the general curriculum to assist in determining—
 - If the student is a student with a disability
 - What should be included in the student's IEP
- No single procedure is used as the sole criterion for determining eligibility or educational program;
- The student is assessed in all areas related to the suspected disability;
- The evaluation of each student with a disability, is sufficiently comprehensive to identify all of his/her special education and related service needs;
- The LEA uses technically sound instruments that provide relevant information in determining the educational needs of the student;
- A vocational/career assessment shall commence with every child with a disability at the age of 14.

300.532 Evaluation procedures.

Each LEA shall ensure, at a minimum, that the following requirements are met:

(a)

- (1) Tests and other evaluation materials used to assess a child-

- (i) Are selected and administered so as not to be discriminatory on a racial or cultural basis; and
- (ii) Are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so; and

- (2) Materials and procedure used to assess a child with limited English proficiency are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education, rather than measuring the child's English language skills.

- (b) A variety of assessment tools and strategies are used to gather relevant functional and developmental information about the child, including information provided by the parent, and information related to enabling the child to be involved in and progress in the general curriculum (or for a preschool child, to participate in appropriate activities), that may assist in determining-

- (1) Whether the child is a child with a disability as defined in these regulation; and
- (2) The content of the child's IEP.

(c)

- (1) Any standardized tests that are given to a child-
 - (i) Have been validated for the specific purpose for which they are used; and
 - (ii) Are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests.
- (2) If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard

conditions (e.g., the qualifications of the person administering the test, or the method of test administration) must be included in the evaluation report.

- (d) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
- (e) Tests are selected and administered so as best to ensure that if a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).
- (f) No single procedure is used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child.
- (g) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.
- (h) In evaluating each child with a disability, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.
- (i) The LEA uses technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

- (j) The LEA uses assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.
- (k) A vocational/career assessment shall commence with every child with a disability at the age of fourteen (14).
- (l) In addition, when recommended by the evaluation team including the parent, specific assessments shall be required in order to determine certain disabilities. *RI Regs. pp. 74-75*

III.4

How does the Evaluation Team decide what evaluation data is needed?

The Evaluation Team, will review the evaluation data on the child including:

- Evaluations and information provided by the parents of the child
- Current classroom-based assessments and observations
- Observations by teachers and related service providers

On the basis of that review and input from the child's parents, the Evaluation Team will determine if any additional data is needed to decide if the child has a disability.

300.533 Determination of needed evaluation data.

- (a) Review of existing evaluation data. As part of an initial evaluation and as part of any reevaluation, a Team of Qualified Professionals and the Parent(s), that includes the individuals described

in the membership of the evaluation team for an initial evaluation (300.532) and the IEP team for a reevaluation (300.344), and other qualified professionals, as appropriate, shall-

- (1) Review existing evaluation data on the child, including-
 - (i) Evaluations and information provided by the parents of the child;
 - (ii) Current classroom-based assessments and observations; and
 - (iii) Observations by teachers and related service providers; and
 - (2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine-
 - (i) Whether the child has a particular category of disability, or, in case of a reevaluation of a child, whether the child continues to have such a disability;
 - (ii) The present levels of performance and educational needs of the child;
 - (iii) Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and
 - (iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general curriculum.
- (b) Need for additional data. The LEA shall administer tests and other evaluation materials as may be needed to produce the data identified under paragraph (a) of this section.

(c) Requirements if additional data are not needed.

- (1) If the determination under paragraph (a) of this section is that no additional data are needed to determine whether the child continues to be a child with a disability, the LEA shall notify the child's parents-
 - (i) Of that determination and the reasons for it; and
 - (ii) Of the right of the parents to request an assessment to determine whether , for purposes of services under this part, the child continues to be a child with a disability.
- (2) The LEA is not required to conduct the assessment described in paragraph (c)
 - (1)
 - (ii) of this section unless requested to do so by the child's parents. *RI Regs. pp.75 -76*

III.5

How is eligibility for special education services determined?

After administering tests and other evaluation materials the Evaluation Team determines if the child has a disability and requires special education services. The LEA must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent. However, a child may not be determined eligible if the determinant factor for that eligibility is lack of instruction in reading or math, limited English proficiency, or if s/he does not otherwise meet the criteria as a child with a disability who needs special education.

300.534

Determination of eligibility.

- (a) Upon completing the administration of tests and other evaluation materials-
 - (1) A Team of qualified professionals and the parent(s) of the child must determine whether the child is a child with a disability; and
 - (2) The LEA must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.
- (b) A child may not be determined to be eligible under this part if-
 - (1) The determinant factor for that eligibility determination is-
 - (i) Lack of instruction in reading or math; or
 - (ii) Limited English proficiency ; and
 - (2) The child does not otherwise meet the eligibility criteria as a child with a disability who needs special education.
- (c)
 - (1) A LEA must evaluate a child with a disability in accordance with these regulations before determining that the child is no longer a child with a disability.
 - (2) The evaluation described in paragraph(c)(1) of this section is not required before the termination of a student's eligibility due to graduation with a regular high school diploma, or exceeding the age eligibility for FAPE. *RI Regs. pp.76-77*

III.6

Can the evaluation team determine services?

No. The Evaluation Team may only discuss **options** for special education services. The actual decisions regarding the type and amount of special education services are made at the meeting held to develop the IEP at which the parent must be a participant.

The appropriate placement for a particular child with a disability cannot be determined until after decisions have been made about the child's needs and the services that the public agency will provide to meet those needs. These decisions must be made at the IEP meeting, and it would not be permissible first to place the child and then develop the IEP. Therefore, the IEP must be developed before placement. (Further, the child's placement must be based, among other factors, on the child's IEP). (Federal Register, Friday, March 12, 1999, Question 14, p. 12475).

III.7

What happens if, after evaluation, the evaluation team and the parent determine that a student does not meet the regulatory criteria for a student with a disability?

If the Evaluation Team determines that the student does not require special education services, a written reason for the finding will be recorded and the child's folder will be returned to the office of special services. The parent must receive written notification documenting the decision .

If the Evaluation Team suspects the student may qualify for reasonable accommodations under Section 504, the Evaluation Team should follow the district's referral process for Section 504.

If the student does not qualify for Section 504 services, another option would be to refer him/her to the Teacher Support Team (TST).

III.8

What happens if the parent does not agree with the evaluation team's determination that the student does not meet the regulatory criteria for a student with a disability?

If the parent does not agree with the team's decision, the parent can request mediation/hearing to resolve the disagreement.

on any matter relating to the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child, including claims arising under section 504 of the rehabilitation act of 1973 if that claim is a part of and not independent of the request for a due process hearing. *RI Regs. pp.59-60*

300.506 Mediation.

- (a) General. The RIDE offers and implements a conflict resolution procedure called "mediation" to allow parties to disputes involving any matter described in these regulations, or whenever a due process hearing is requested, to attempt to reach resolution of differences of opinion between the disputing parties (parent and LEA). *RI Regs. pp.58*

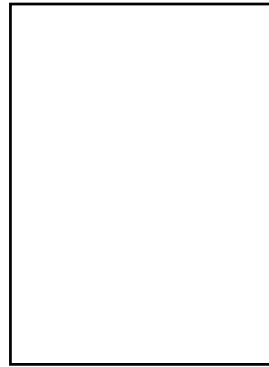
300.507 Impartial due process hearing; Parent notice.

- (a) General
 - (1) A parent or LEA may initiate a hearing on any of the matters involving a LEA's proposal to initiate or change the identification, evaluation, or educational placement of a child or the provision of FAPE to the child; or the refusal to initiate or change the identification, evaluation, educational placement of an eligible child or the provision of FAPE to the child; and

Chapter Four

The IEP Process: Development of the IEP

4. The IEP Process: Development of the IEP



IV.

How is the IEP developed?

Once a student has been designated as a student with a disability and is eligible for services under IDEA, the school district must conduct a meeting to develop an Individualized Education Program (IEP). This meeting must occur within 15 school days of determining that the student needs special education.

300.343 **IEP meetings.**

- (a) General. Each LEA is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP or IFSP of a child with a disability or IFSP.
- (b) Initial IEPs; provision of services. Each LEA shall ensure that following the agency's receipt of parental consent to an initial evaluation of a child:
 - (i) within forty five (45) school days the child is evaluated; and
 - (ii) In meeting the requirement in paragraph (b)(1) of this section, a

meeting to develop an IEP for the child must be conducted within 15 school days of a determination that the child needs special education and related services.

- (iii) If determined eligible under these regulations, special education and related services are made available to the child in accordance with an IEP within sixty (60) school days of the receipt of parental consent to evaluate. *RI Regs. p.38*

IV.1

Who must be present at the IEP meeting and what are their roles and responsibilities?

The individuals who must be present at the meeting to develop the student's IEP are:

1. The parent(s) of the student
2. At least one of the student's regular education teachers
3. At least one of the student's special education teachers
4. A representative of the LEA
5. An individual who can interpret the implications of evaluation results (may be also filling the role of 2,3, or 4)
6. Other individuals who have knowledge or special expertise regarding the student (at the discretion of the parent or agency). This includes related service providers as appropriate.
7. The student when it is deemed appropriate
8. If the student is 14 years of age, or younger if appropriate, transition services participants need to attend the meeting.

1. The parents of the student – *The parents of a child with a disability are expected to be equal participants along with school personnel, in developing, reviewing, and revising the IEP for their child. This is an active role in which the parents (1) provide critical information regarding the strengths of the child and express their concerns for enhancing the education of their child; (2) participate in discussions about the child's need for special education and related services and supplementary aids and services; and (3) join with the other participants in deciding how the child will be involved and progress in the general curriculum and participate in State and district-wide assessments, and what services the agency will provide to the child and in what setting. (Federal Register, Friday, March 12, 1999, Question 5, p. 12473).*

Though parents are expected to be equal participants at the IEP meeting, they often have not been trained in writing IEPs or in participating at IEP meetings. Information could be shared with parents throughout the evaluation process and prior to IEP notification, regarding what will be discussed at the meeting, questions to consider, etc. This would enhance parents' readiness to share their wishes (i.e., goals) for their child, as well as to contribute to the determination of the child's needs and present levels of performance. Please remember that all information sent to parents must be in their native language.

300.345

Parent participation.

- (a) **LEA responsibility – general.** Each LEA shall take steps to ensure that one or both of the parents of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate, including—
- (1) Notifying parents of the meeting ten (10) school days prior to the meeting to ensure that they will have an opportunity to attend (the parent may agree to waive the ten (10)

day notice requirement in order to expedite the IEP meeting); and

- (2) Scheduling the meeting at a mutually agreed on time and place.

(b) Information provided to parents.

- (1) The notice required under paragraph (a)(1) of this section must –
 - (i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and
 - (ii) Inform the parents that the LEA or the parent may invite other individuals to participate on the IEP team who have knowledge or special expertise about the child.
- (2) For a student with a disability beginning at age 14, or younger, if appropriate, the notice must also –
 - (i) Indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the student; and
 - (ii) Indicate that the LEA will invite the student.
- (3) For a student with a disability beginning at age 16, or younger, if appropriate, the notice must –
 - (i) Indicate that a purpose of the meeting is the consideration of needed transition services for the student including a statement of the interagency responsibilities or any needed interagency linkages.
 - (ii) Indicate that the LEA will invite the student; and
 - (iii) Identify any other agency that will be invited to send a representative.

- (c) Other methods to ensure parent participation. If neither parent can attend, the LEA shall use other methods to ensure parent participation, including individual or conference telephone calls.

- (d) Conducting an IEP meeting without a parent in attendance. A meeting may be conducted without a parent in attendance if the LEA is unable to convince the parents that they should attend. In this case the LEA must have a record of its attempts to arrange a mutually agreed on time and place, such as –

- (1) Detailed records of telephone calls made or attempted and the results of those calls;
- (2) Copies of correspondence sent to the parents and any responses received; and
- (3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

- (e) Use of interpreters or other action, as appropriate. The LEA shall take whatever action is necessary to ensure that the parent understands the proceedings at the IEP meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.

- (f) Parent copy of child's IEP. The LEA shall give the parent a copy of the child's IEP at no cost to the parent and not later than ten (10) calendar days after—

- (1) an IEP has been developed for the child; and
- (2) after the receipt of a request for a copy of the IEP. *RI Regs., pp.40-41.*

2. At least one of the student's regular education teachers – Very often, regular education teachers play a central role in the education of children with disabilities and have important expertise regarding the general curriculum and the general education environment. Further, with the emphasis on involvement and progress in the general curriculum added by the IDEA Amendments of 1997, regular education teachers have an increasingly critical role (together with special education and related services personnel) in implementing the program of FAPE for most children with disabilities, as described in their IEPs. (Federal Register, Friday, March 12, 1999, Question 1, p. 12472).

Thus, a ... regular education teacher...must, to the extent appropriate, participate in the development, review, and revision of the child's IEP, including assisting in (1) the determination of appropriate positive behavioral interventions and strategies for the child; and (2) the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the child...

The teacher need not (depending upon the child's needs and the purpose of the specific IEP team meeting) be required to participate in all decisions made as part of the meeting or to be present throughout the entire meeting or attend every meeting. For example, the regular education teacher who is a member of the IEP team must participate in discussions and decisions about how to modify the general curriculum in the regular classroom to ensure the child's involvement and progress in the general curriculum and participation in the regular education environment.

Depending upon the specific circumstances, however, it may not be necessary for the regular education teacher to participate in discussions and decisions regarding, for example, the physical therapy needs of the child, if the teacher is not responsible for implementing that portion of the child's IEP.

In determining the extent of the regular education teacher's participation at IEP meetings, public agencies

and parents should discuss and try to reach agreement on whether the child's regular education teacher that is a member of the IEP team should be present at a particular IEP meeting and, if so, for what period of time. The extent to which it would be appropriate for the regular education teacher member of the IEP team to participate in IEP meetings must be decided on a case by case basis. (Federal Register, Friday, March 12, 1999, Question 24, p. 12477).

3. At least one of the student's special education teachers, or if appropriate, at least one of the student's special education service providers. The special educator on the Team can be either the student's special education teacher, or the student's special education service provider, such as a speech therapist, if the related service is considered specially designed instruction. If the student is being considered for special education for the first time, the role of the special education teacher could be filled by a teacher qualified to provide special education in the child's area of suspected disability. Occupational therapists, physical therapists and guidance counselors cannot fill the role of the special education teacher/service provider on the IEP team since these individuals do not provide specially designed instruction. Their services are considered related services and do not fulfill the requirements of the regulations in Rhode Island.

4. A representative of the LEA – This could be the special education director, a building principal, or another representative of the school district. Each district may determine the specific staff person who will serve as its representative in a particular IEP meeting, so long as the person meets the following criteria: ...*(a) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; (b) is knowledgeable about the general curriculum; and (c) is knowledgeable about the availability of resources of the public agency.*

...It is important, however, that the agency representative have the authority to commit agency resources and be

able to ensure that whatever services are set out in the IEP will actually be provided. (Federal Register, Friday, March 12, 1999, Question 22, p. 12477).

Since the decision about the type of program or services the student needs to attain his/her IEP goals are made at the IEP meeting, it is inappropriate to recess an IEP meeting so another administrator or policy maker who was not at the meeting can approve or determine the type of placement/services, or the amount of services.

Occupational therapists, physical therapists, school psychologists, social workers, guidance counselors and adaptive physical education teachers cannot be the agency representative, since they are not qualified to provide or supervise the provision of specially designed instruction according to an interpretation of the Rhode Island Department of Elementary and Secondary Education. The services they provide, such as counseling or physical therapy, are considered related services, not specially designed instruction. A special education teacher or a speech therapist could serve as the district representative, since, as teachers, they provide specially designed instruction, if they meet the other criteria.

5. An individual who can interpret the instructional implications of evaluation results – This individual may also be filling the role of regular education teacher, special education teacher, LEA representative, or other individuals who have knowledge or special expertise, on the IEP team, if s/he can interpret the instructional implications of the evaluation results.

6. At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related service providers as appropriate – ...the determination as to whether an individual has knowledge or special expertise ... shall be made by the parent or public agency who has invited the individual to be a member of the IEP team. (Federal Register, Friday, March 12, 1999, Question 28, p. 12478)

7. If appropriate, the student – If a purpose of an IEP meeting for a student with a disability will be the consideration of the student's transition service needs or needed transition services the ... school district ...must invite the student and, as part of the notification to the parents of the IEP meeting, inform the parents that the agency will invite the student to the IEP meeting.

If the student does not attend, the... school district... must take other steps to ensure that the student's preferences and interests are considered.

...Generally, a child with a disability should attend the IEP meeting if the parent decides that it is appropriate for the child to do so. If possible, the... school district ...and parents should discuss the appropriateness of the child's participation before a decision is made, in order to help the parents determine whether or not the child's attendance would be (1) helpful in developing the IEP or (2) directly beneficial to the child or both. The ...school district... should inform the parents before each IEP meeting ...that they may invite the child to participate. (Federal Register, Friday, March 12, 1999, Question 6, p. 12473).

School district personnel and family members should help the student prepare for his/her participation on the IEP Team to develop his/her own IEP.

300.344 IEP team.

- (a) General. The LEA shall ensure that the IEP team for each child with a disability includes –
- (1) The parents of the child;
 - (2) At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
 - (3) At least one special education teacher of the child, or if appropriate, at least one special education provider of the child;

- (4) A representative of the LEA who –
 - (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
 - (ii) Is knowledgeable about the curriculum; and
 - (iii) Is knowledgeable about the availability of resources of the public agency and has the authority to commit those resources;
- (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (6) of this section;
- (6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- (7) If appropriate, the child.

(b) Transition services participants.

- (1) Under paragraph (a)(7) of this section, the LEA shall invite a student with a disability of any age to attend his or her IEP meeting if a purpose of the meeting will be the consideration of –
 - (i) The student’s transition services needs; or
 - (ii) The needed transition services for the student; or
 - (iii) Both
- (2) If the student does not attend the IEP meeting, the LEA shall take other steps to ensure that the student’s preferences and interests are considered.

- (3)(i) The LEA also shall invite a representative of any other agency that is likely to be responsible for providing or paying for transition services.
- (ii) If an agency invited to send a representative to a meeting does not do so, the LEA shall take other steps to obtain participation of the other agency in the planning of any transition services. RI Regs. pp.39-40

8. Transition services participants – If the student is 14 years of age, or younger if deemed appropriate by the IEP team, a statement of transition service needs must be considered at the IEP meeting. Beginning at age 16, or younger if deemed appropriate by the IEP team, a statement of the needed transition services and, if appropriate, interagency linkages must be considered. In such cases the school district should also invite, in addition to the student, a representative of any other agency that is likely to be responsible for providing or paying for transition services.

(For a more detailed description of transition services, please refer to Transition Manual available from the Rhode Island Department of Elementary and Secondary Education or the University Affiliated Program at Rhode Island College.)

When it is determined who will be at the meeting, the school district must notify parents at least ten (10) school days prior to the IEP meeting. The notice *...must indicate the purpose, time, and location of the meeting and who will be in attendance. ... The school district ...also must inform the parents of the right of the parents... to invite other individuals who have knowledge, or special expertise regarding the child, including related services personnel as appropriate to be members of the IEP team.*

It also may be appropriate for the agency to ask the parents to inform the agency of any individuals the parents will be bringing to the meeting. Parents are encouraged to let the agency know whom they intend

to bring. Such cooperation can facilitate arrangements... and help ensure a productive, child-centered meeting. (Refer to *Federal Register*, Friday, March 12, 1999, Question 7, p. 12473).

IV.1-A

If a student with a disability has several regular education teachers, must all of them attend the IEP meeting?

No. The IEP team need not include more than one regular education teacher of the child. If the participation of more than one regular education teacher would be beneficial to the child's success in school (e.g., in terms of enhancing the child's participation in the general curriculum), it would be appropriate for them to attend the meeting. (Federal Register, Friday, March 12, 1999, Question 25, p. 12477).

However, even if all the teachers do not participate, ...the LEA is strongly encouraged to seek input from all the teachers who will not be attending. In addition, ...the LEA must ensure that each regular education teacher (as well as each special education teacher, related services provider, and other service provider) of an eligible child ... (1) has access to the child's IEP, and (2) is informed of his or her specific responsibilities related to implementing the IEP, and of the specific accommodations, modifications and supports that must be provided to the child.... ' (Federal Register, Friday, March 12, 1999, Question 26, pp. 12477-12478).

Even if a guidance counselor is certified as a regular education teacher, s/he cannot fill the role of regular education teacher at the IEP meeting. This role must be filled by the child's regular education teacher.

IV.1-B

If the student with a disability is in a substantially separate program and/or does

not have a regular education teacher, must a regular education teacher attend?

Yes, a regular education teacher should participate as a member of the IEP team for a student with a disability, who is in a substantially separate program. Regular education teachers are particularly familiar with the general education curriculum. Their presence helps ensure that the IEP team will consider the student's opportunity to be involved with and progress in the general curriculum. The regular education teacher can provide valuable information on the specific curriculum areas to be addressed as well as modifications and accommodations that could be made for the student.

IV.1-C

If a student with a disability has need for related services, must a related service provider attend the IEP meeting?

Although the regulations do not specifically require that the IEP team include related services personnel, it is appropriate for those persons to be included if a particular related service is to be discussed as part of the IEP meeting. ...For example, if the child's evaluation indicates the need for a specific related service (e.g., physical therapy, occupational therapy, special transportation services, school social work services, school health services, or counseling), the ... school district... should ensure that a qualified provider of that service either (1) attends the IEP meeting, or (2) provides a written recommendation concerning the nature, frequency, and amount of service to be provided to the child. This written recommendation could be part of the evaluation report. (Federal Register, Friday, March 12, 1999, Question 30, p. 12478)

Since speech and language therapy are considered specially designed instruction in Rhode Island, the speech therapist could attend the IEP meeting as the child's special education teacher.

IV 1-D

Can parents or school districts bring their attorneys to IEP meetings?

One may invite individuals to the IEP meeting if they have expertise or knowledge regarding the child that is pertinent to developing the IEP. If an attorney happens to have this type of relationship and wishes to contribute to the IEP process, this may be considered to be appropriate. Such a presence may, however, appear threatening to the other party and hinder the open atmosphere of sharing that is desirable at IEP meetings.

300.344 (c) Determination of knowledge and special expertise.

The determination of the knowledge or special expertise of any individual ...shall be made by the party (parents or LEA) who invited the individual to be a member of the IEP team. RI Regs. p.40

Section 300.344 (a)(6) authorizes the addition to the IEP team of other individuals at the discretion of the parent or the public agency only if those other individuals have knowledge or special expertise regarding the child. The determination of whether an attorney possesses knowledge or special expertise regarding the child would have to be made on a case-by-case basis by the parent or public agency inviting the attorney to be a member of the team.

The presence of the agency's attorney could contribute to the potentially adversarial atmosphere at the meeting. The same is true with regard to the presence of an attorney accompanying the parents at the IEP meeting. Even if the attorney possesses knowledge or special expertise regarding the child..., an attorney's presence would have the potential for creating an adversarial

atmosphere that would not necessarily be in the best interests of the child.

Therefore, the attendance of attorneys at IEP meetings should be strongly discouraged. Further,...Attorneys' fees may not be awarded relating to any meeting of the IEP team unless the meeting is convened as a result of an administrative proceeding or judicial action, or, at the discretion of the State, for a mediation conducted prior to the request for a due process hearing. (Federal Register, Friday, March 12, 1999, Question 29, p. 12478)

IV.2

What is the relationship between the Evaluation Team and the IEP team?

The Evaluation Team is a Team of Qualified Professionals and the parent who have met state approved or state recognized certification or licensing in the area in which they are providing special education and related services. If a student has been referred for special education for the first time, the Evaluation Team, and the parent of the student referred for an evaluation, will determine if the student should be evaluated for special education and what evaluations should be conducted. Once the evaluations are conducted the Evaluation Team and the parent will determine whether the child is a child with a disability and the educational needs of the child. The Evaluation Team will develop a written report of its findings and share it with the IEP team. The IEP team must then meet and develop an IEP for the student within 45 days of consent to evaluate (refer to RI Regs. 300.531, p. 73).

IV.2-A

Why is the information provided by the Evaluation Team important to the IEP team?

The IEP must be developed as an internally consistent document. This means that the assessment data provided

by the Evaluation Team, as well as the information provided by the IEP team members, serves as the basis for developing the student's strengths, needs, and present levels of performance. These in turn provide the basis for establishing the student's annual goals, short term, specific objectives or benchmarks, and the supplementary aids and services needed to meet these goals in the least restrictive environment. **Only after these components have been specified can the IEP meeting participants determine the special education and related services necessary for the child to attain the defined goals and objectives.** In addition, the IEP meeting participants will determine the extent to which the student with a disability will be able to participate in regular education programs, the dates for the beginning of services, frequency, location and duration of services and modifications.

IV.2-B

Can a district combine the team meetings to determine the need for special education and the IEP meeting?

A public agency may, after a child is determined by "a group of qualified professionals and the parent" to be a child with a disability, continue in the same meeting to develop an IEP for the child and then to determine the child's placement. (*Federal Register, Friday, March 12, 1999, Question 19, p. 12476*).

However, the school district must ensure that the meeting 1) meets all the requirements regarding eligibility decisions; 2) meets all the requirements regarding meetings to develop IEPs including ensuring that all required participants work together in the development of the IEP; and 3) ensures that the placement decision is made by all required individuals, including the parents.

IV.3

What should the team consider in developing the student's IEP?

300.346

Development, review, and revision of the IEP.

(a) Development of IEP.

- (1) General. In developing each child's IEP, the IEP team, shall consider –
 - (i) The strengths of the child and the concerns of the parents for enhancing the education of their child;
 - (ii) The results of the initial or most recent evaluation of the child; and
 - (iii) As appropriate, the results of the child's performance on any general State or district-wide assessment programs.
- (2) Consideration of special factors. The IEP team also shall –
 - (i) In the case of a child whose behavior impedes his or her learning or that of others, consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior;
 - (ii) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;
 - (iii) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media

(including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;

- (iv). Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and
- (v). Consider whether the child requires assistive technology devices and services. RI Regs. pp.41-42.

No single factor dictates the IEP contents. Rather, a combination of formal and informal assessments, school and district performance assessments, and student portfolios provide evidence for addressing specific needs while defining strengths. Teachers and parents will also provide information that can be utilized in the construction of the IEP.

IV.4-A

What must be included in the IEP?

According to the regulations, the following must be included in the Individualized Education Program:

- Present levels of educational performance
- Measurable annual goals
- Benchmarks or short term objectives

- Special education and related services and supplementary aids and services
- Extent, if any, to which the child will not participate with non-disabled children in the regular class
- A statement of any individual modifications in state or district-wide assessments or a statement of why that assessment is not appropriate for the child and how the child will be assessed
- A date for the beginning of services and modifications as well as frequency, location, duration of services and modifications
- How the child's annual goals will be measured
- How the child's parents will be regularly informed of progress toward annual goals
- Beginning at least at age 14 a statement of transition service needs
- Beginning at least at age 16 a statement of the needed transition services and, if appropriate, interagency linkages
- Beginning at least one year before the child reaches the age of 18, a statement that the student must be informed of rights being transferred to him or her.

300.347

Content of the IEP

- (a) General. The IEP for each child with a disability must include-
- (1) A statement of the child's present levels of educational performance, including
- (i) How the child's disability affects the child's involvement and progress in the general curriculum (i.e., the same curriculum as for nondisabled children):
- or

- (ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;
- (2) A statement of measurable annual goals, including benchmarks or short-term objectives, related to –
 - (i) Meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum (i.e., the same curriculum as for nondisabled children), or for preschool children, as appropriate, to participate in appropriate activities; and
 - (ii) Meeting each of the child's other educational needs that result from the child's disability;
- (3) A statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child –
 - (i) To advance appropriately toward attaining the annual goals;
 - (ii) To be involved and progress in the general curriculum in accordance with paragraph (a)(1) of this section and to participate in extracurricular and other nonacademic activities; and
 - (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;
- (4) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(3) of this section;
- (5)
 - (i) A statement of any individual modifications in the administration of

State or district-wide assessments of student achievement that are needed in order for the child to participate in the assessment; and

- (ii) If the IEP team determines that the child will not participate in a particular State or district-wide assessment of student achievement (or part of an assessment), a statement of
 - (A) Why that assessment is not appropriate for the child; and
 - (B) How the child will be assessed;
- (6) The projected date for the beginning of the services and modifications described in paragraph (a) (3) of this section, and the anticipated frequency, location, and duration of these services and modifications; and
- (7) A statement of
 - (i) How the child's progress toward the annual goals described in paragraph (a)(2) of this section will be measured; and
 - (ii) How the child's parents will be regularly informed (through such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of
 - (A) Their child's progress toward the annual goals; and
 - (B) The extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.
- (b) Transition services. The IEP must include-
 - (1) For each student with a disability beginning at age 14 (or younger, if determined appropriate by the IEP team), and updated annually, a statement of the transition

service needs of the student under the applicable components of the student's IEP that focuses on the student's courses of study (such as participation in advanced-placement courses or a vocational education program); and

- (2) For each student beginning at age 16 (or younger, if determined appropriate by the IEP team), a statement of needed transition services for the student, including, if appropriate, a statement of the interagency responsibilities or any needed linkages.

- (c) Transfer of rights. Beginning at least one year before a student reaches the age of majority (eighteen (18) years), the student's IEP must include a statement that the student has been informed of his or her rights under Part B of the Act, if any, that will transfer to the student on reaching the age of majority. RI Regs. pp.42-44

300.347

Content of the IEP.

- (b) Transition services. The IEP must include –

- (1) For each student with a disability beginning at age 14 (or younger, if determined appropriate by the IEP team), and updated annually, a statement of the transition service needs of the student under the applicable components of the student's IEP that focuses on the student's courses of study (such as participation in advanced-placement courses or a vocational education program); and

- (2) For each student beginning at age 16 (or younger, if determined appropriate by the IEP team), a statement of needed transition services for the student, including, if appropriate, a statement of the interagency responsibilities or any needed linkages. RI Regs. p.43

IV.4-B

What is a transition plan and how does it relate to the IEP?

There is no separate document entitled a Transition Plan. If this were the case, it would suggest a document and a system in addition to the IEP. Rather it is the IEP team who must consider the transition needs of the student with a disability, beginning at age 14 (or younger if deemed appropriate by the IEP team) and beginning at age 16 (or younger if deemed appropriate by the IEP team) the needed transition services. Once considered, a statement of the transition service needs and the needed transition services must be included in the IEP.

Please refer to the Transition Manual available from the Rhode Island Department of Elementary and Secondary Education or the University Affiliated Program at Rhode Island College for additional information on transition and transition services.

IV.4-C

What are present levels of educational performance?

Present levels of educational performance are developed for each area in which it is determined, from the results of the initial or most recent evaluations of the student as well as concerns of the parent and teachers, that specially designed instruction is needed. The present level should include:

- (i) *How the child's disability affects the child's involvement and progress in the general curriculum; or*
- (ii) *for preschool children, as appropriate, how the child's disability affects the child's participation in appropriate activities. (Appropriate activities in this context refers to age-relevant developmental abilities or milestones that typically developing children of the same age would be performing or would have achieved.)*

The IEP team's determination of how each child's disability affects the child's involvement and progress in the general curriculum is a primary consideration in the development of the child's IEP. In assessing children with disabilities, school districts may use a variety of assessment techniques to determine the extent to which these children can be involved and progress in the general curriculum, such as criterion-referenced tests, standard achievement tests, diagnostic tests, other tests, or any combination of the above.

The purpose of using these assessments is to determine the child's present level of educational performance and areas of need arising from the child's disability so that approaches for ensuring the child's involvement and progress in the general curriculum and any needed adaptations or modifications to that curriculum can be identified. (Federal Register, Friday, March 12, 1999, Question 1, p. 12471).

Standardized tests scores by themselves are not helpful in developing IEP present levels of performance because they do not provide material that is relevant to the regular classroom and specific enough to develop annual goals and short term objectives. However, if a team feels it is necessary to include test scores in describing a student's present level of educational performance, they should make sure the results are self-explanatory or explained, and ensure that the impact of the disability on the student's performance is reflected. Also, in determining present levels, the IEP team should consider information and observations provided by the parents.

The results of performance-based, state-wide, and district assessments can be considered in developing present levels of performance, since there should be a clear link between these assessments and standards based classroom instruction. However, they too should be coupled with day-to-day instructional and assessment information from the classroom as well as other sources of information.

The present levels of performance should provide a basis for projecting goals and objectives that will be developed, and help establish criteria for determining when the goals and objectives have been achieved. They should indicate what the student does or does not do in each area of concern at the time the IEP is developed. If the child uses assistive technology devices, they should be used as this present level of performance data is collected. This may be noted in the IEP. Since, however, there is an area in the IEP specifically used for documenting the supplementary aids, this is not required. It is from these specific levels that the participants at the IEP meeting can then develop annual goals and objectives which are relevant, and then determine the supplementary aids and services and special education and related services that need to be provided for the child to meet the goals.

In summary, present levels of performance should:

- Be related to an area of need
- Describe performance in the general curriculum
- Describe what student does (strength) and needs to be able to do
- Be written in objective, measurable terms
- Not include test scores unless they are self explanatory

(Please refer to the IEP Guidebook and Sample IEPs available from the Rhode Island Department of Elementary and Secondary Education for examples of present levels of performance.)

IV.4-D

Based on the Present Levels of Performance what are the student's annual goals in each area of need?

For each identified present level of performance, there must be at least one annual goal specified. These goals and subsequent objectives form the basis for the curriculum and specially designed instruction provided to the student. They are, therefore, written in terms of what the student will achieve. **They should not be written in terms of what a parent or service provider will provide to the student.**

Annual goals state the anticipated achievement expected within a 12 month period of time, although they can be written for a shorter period. In developing annual goals the present level of educational performance must be considered. Annual goals must not be a restatement of the present levels of performance. Yet anyone reviewing the IEP should be able to clearly determine the direct relationship between the two.

Annual goals must be measurable. *Measurable annual goals, including benchmarks or short-term objectives, are critical to the strategic planning process used to develop and implement the IEP for each child with a disability. Once the IEP team has developed measurable annual goals for a child, the team (1) can develop strategies that will be most effective in realizing those goals and (2) must develop either measurable, intermediate steps (short term objectives) or major milestones (benchmarks) that will enable parents, students, and educators to monitor progress during the year, and if appropriate, to revise the IEP consistent with the student's instructional needs.*

The strong emphasis ... on linking the educational program of children with disabilities to the general curriculum is reflected in 300.347(a)(2), which requires that the IEP include: a statement of measurable annual goals, including benchmarks or short term objectives, related to – (i) meeting the child's needs that result from

the child's disability to enable the child to be involved in and progress in the general curriculum; and (ii) meeting each of the child's other educational needs that result from the child's disability. (Federal Register, Friday, March 12, 1999, Question 1, p. 12471).

(Please refer to the IEP Guidebook for examples of annual goal statements.)

IV.4-E

Must the measurable annual goals address all areas of the general curriculum or only those areas in which the student's involvement and progress are affected by his/her disability?

No, areas of the general curriculum that are not affected by the student's disability do not need to be specifically addressed in the IEP. Annual goals should address areas of the general curriculum that are directly affected by the student's disability. Accommodations and modifications may be needed for the student to participate in other areas of the general curriculum. The school district ...*is not required to include in an IEP annual goals that relate to areas of the general curriculum in which the student's disability does not affect the child's ability to be involved in and progress in the general curriculum. If a child with a disability needs only modifications or accommodations in order to progress in an area of the general curriculum, the IEP does not need to include a goal for that area; however, the IEP would need to specify those modifications or accommodations.*

School districts often require all children, including children with disabilities, to demonstrate mastery in a given area of the general curriculum before allowing them to progress to the next level or grade in that area. Thus, in order to ensure that each child with a disability can effectively demonstrate competencies in an applicable area of the general curriculum, it is important for the IEP team to consider the accommodations and

modifications that the child needs to assist him or her in demonstrating progress in that area. (Federal Register, Friday, March 12, 1999, Question 4, p.12472)

IV.4-F

What are short term objectives or benchmarks?

Short term objectives or benchmarks are measurable, intermediate steps between an individual's present level of performance and the annual goal. Objectives should be based on a logical breakdown of the annual goal and reflect advancement toward that goal. They therefore must be provided for each area in which present levels of performance and annual goals have been stated.

...each annual goal must include either short-term objectives or benchmarks. The purpose of both is to enable a child's teacher(s), parents and others involved in developing and implementing the child's IEP, to gauge, at intermediate times during the year, how well the child is progressing toward achievement of the annual goal. IEP teams may continue to develop short-term instructional objectives, that generally break the skills described in the annual goal down into discrete components. The revised statute and regulations also provide that, as an alternative, IEP teams may develop benchmarks, which can be thought of as describing the amount of progress the child is expected to make within specified segments of the year. Generally, benchmarks establish expected performance levels that allow for regular checks of progress that coincide with the reporting periods for informing parents of their child's progress toward achieving the annual goals. An IEP team may use either short term objectives or benchmarks or a combination of the two depending on the nature of the annual goals and needs of the child. (Federal Register, Friday, March 12, 1999, Question 1, p. 12476).

(Please refer to the *IEP Guidebook* for examples of short term objectives or benchmarks.)

IV.4-G

Can short term objectives or benchmarks be changed without initiating another IEP meeting?

No. *If either a parent or the school district believes that a required component of the student's IEP should be changed, the school district must conduct an IEP meeting if it believes that a change in the IEP may be necessary.... (Federal Register, Friday, March 12, 1999, Question 20, p. 12471).* Since short term objectives, benchmarks, and annual goals are required components of the IEP, a meeting must be held with all required Team members if any of these are going to be changed. The Team will then make the needed changes in the IEP and thus a new IEP will have been developed. There is no such thing as an addendum to an IEP allowed under IDEA.

IV.4-H

Do criteria, procedures, and schedules need to be included in the IEP?

Yes. It is essential that the service providers responsible for achieving the specific goals and objectives outlined on the IEP continually monitor progress towards their attainment. As mentioned previously, the cornerstone of IDEA is the IEP. The foundation of the IEP is comprised of the goals and objectives/benchmarks. Only after the goals and objectives/benchmarks have been specified can one determine the program and services that meet the defined needs. Only by determining if the goals and objectives/benchmarks have been met can one ascertain whether or not the current program is appropriate or how it needs to be revised. The IEP for each child with a disability must include appropriate objective criteria, evaluation procedures, and schedules for determining whether or not the short term instructional objectives or benchmarks are being reached.

a) *Appropriate Objective Criteria*

In writing a specific objective or benchmark, the criteria for attainment must be specified in such a way that it can be measured. Criteria may be stated according to rubrics, time limits, percentage or ratio of items correct, minimum number of appropriate responses, or specific statements of criteria. An example of each of the above is underlined in the objectives listed below.

1. The student will use graphic organizers to write a story at *level 4* of the writing assessment scoring rubric (rubric would be attached).
2. The student will complete the prewriting assignment within a *60 minute* time block (time limit)
3. Given a reading selection at the 2nd grade level the student will read the selection aloud with *90% correct* word recognition (percentage)
4. The student will participate in group activities during recess at least *once a day* (specific number of appropriate responses).
5. The student will develop a story with a *beginning, middle, and end* (specific criteria).
6. The student will develop a prewriting organizer for each writing *assignment by using a web, outline, or other appropriate organizer* 100% of the time (specific criteria).
7. The student will write a resume, cover letter, and letter of application with *95% accuracy on letter checklist* (percentage and use of customized checklist, which would be attached).

b) *Evaluation Procedures*

The evaluation procedures used are determined by the conditions and criteria specified in the objective or benchmark. For example, in objective 1 listed above, the teacher would evaluate the student's piece of writing to determine if it met the criteria for level 4.

Thus the procedure would be written performance, since the teacher would be analyzing a writing sample. In example 2, the teacher would use time sampling to determine if the student was able to complete the prewriting assignment within 60 minutes. In example 3, the teacher would probably use a running record to determine the number of words read correctly. Direct observation and frequency counting were the procedures identified to determine if the student participated in a group activity at least once a day. Finally, written performance would be the procedure used to determine if the student developed a story with a beginning, middle, and end.

The evaluation procedure can take many forms, such as:

- systematic observation
- teacher made tests
- exhibitions with rubrics
- curriculum based assessments
- checklists
- anecdotal records
- graphs and work samples
- standardized tests
- performance based assessments

Whatever procedures are used, it is critical that each service provider gather data in a systematic way and have it available at progress and annual review points so that decisions regarding the IEP can be data driven.

c) *Schedules for Determining Achievement of Objectives*

According to the regulations, attainment of goals must be evaluated on at least an annual basis. However, progress towards goals must be reported to parents at least as often as progress is reported to families of nondisabled students. In most districts progress is reported quarterly in November, January, April and June. If the IEP is

indeed a blueprint for instruction, rather than simply a means to document compliance with a regulation, the objectives or benchmarks will also serve as a means to monitor progress on an ongoing basis.

One way to ensure this is to write objectives or benchmarks based on where you expect the student to be at the report card time when these reports are sent home. The service provider responsible for a particular goal can report on the student's progress. If the objectives or benchmarks have not been met, then revisions can be made at that time. An example of objectives written as quarterly benchmarks is given on the following page.

Objective/ Benchmark	Criteria	Evaluation Procedure	Evaluation Schedule
<p>Jane will read a passage (silently and orally) from a newspaper or other related material and</p> <p>A) recall details B) summarize events C) follow directions (written and oral answers)</p>	85% accuracy	Completed assignments, tests, written retell	Quarterly
<p>Jack will read one book in class , answer comprehension questions, and write a report/ PowerPoint presentation.</p>	90% accuracy on questions, & level 4 on PowerPoint presentation rubric	Completed assignments, report and PowerPoint presentation	By June
<p>Jimmy will independently read (orally and silently) and follow multistep directions (i.e., recipes, medication, tests and clothing care).</p>	90% accuracy	Review of portfolio, class discussion, tests	By April
<p>Julie will demonstrate vocabulary knowledge by developing and writing ten word problems in the areas of problem solving, reasoning, and math connections in a peer tutoring activity.</p>	9 out of 10 word problems written correctly	Review of completed problems, teacher directed evaluation	Weekly

Annual Goal:

Emily will become a more effective communicator in a variety of settings and for varied purposes by improving the intelligibility of her speech from a two word level (e.g. I go.) to a beginning simple sentence level (e.g., John plays ball). (RI English Language Arts Standard 1)

Specific Objectives:

By November Emily will initiate specific speech sounds while communicating with others.

By January Emily will produce three-part phrases, such as: "I go too."

By April Emily will participate in peer-to-peer conversational routines (e.g., social greetings).

By June Emily will produce three-to-four word sentences while maintaining proper fluency (e.g., timing, rhythm.).

These objectives do not represent the daily lesson plan for each student. They only represent points along the way towards attainment of the annual goal.

The information gathered through the monitoring of annual goals and short term objectives will also be valuable in determining present levels of performance in the following year's IEP. (Refer to *Federal Register*, Friday, March 12, 1999, Question 1, p. 12471).

IV.4-I

What is included in the statement of special education and related services and supplementary aids and services?

After determining the student's goals and objectives, the IEP team must determine the specific special education, related services and supplementary aids and services to be provided to the student. These services will enable the student to reach his or her goals, to progress in the general curriculum, and to participate in extracurricular activities with nondisabled peers.

300.347 (a) (3) Content of the IEP.

A statement of the special education and related services and supplementary aids and services to be provided to the child, or in behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child-

- i.) To advance appropriately toward attaining the annual goals;
- ii.) To be involved and progress in the general curriculum in accordance with paragraph (a)(1) of this section and to participate in extracurricular and other nonacademic activities; and
- iii.) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section; RI Regs. p.43

Since the special education program and services cannot be determined until the goals and objectives are specified, the IEP team, including the parent, must develop them.

In keeping with both the letter and spirit of IDEA, the IEP team, in deciding the special education and related services and supplementary aids and services, must first consider how the student's needs can be met within the regular classroom or other natural settings. Only when it determines that it cannot meet the student's needs within the regular classroom or other natural setting with supplementary aids and services, should the IEP team consider options outside the regular classroom. In determining the special education and related services, the IEP team should keep the following in mind.

- 1) Special education means specially designed instruction, at no cost to the parents, to meet the

unique needs of a student with a disability, including:

- Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings
- Instruction in physical education
- Speech-language pathology services
- Travel training
- Vocational education

(Refer to RI Regs. 300.26, pg. 19)

2) All related services documented in a student's IEP must be provided to the student to help him/her benefit from special education, which may include:

- Transportation
- Speech-language pathology and audiology services
- Psychological services
- Physical and occupational therapy
- Recreation, including therapeutic recreation
- Early identification and assessment of disabilities
- Counseling services, including rehabilitation counseling
- Orientation and mobility services
- Medical services for diagnostic or evaluation purposes
- School health services
- Social work services in schools
- Parent counseling and training

(Refer to RI Regs. 300.24, pg. 16)

3) Extended school year must be considered and be based on the student's needs rather than the category of disability.

- 4) The type and amount of service a student is eligible to receive cannot be based on the category of disability.
- 5) Assistive Technology devices and training on them should also be considered in this section.

IV.4-1a

How does the IEP team determine the student with disability's need for extended school year?

There is no single criterion used in making an eligibility determination for Extended School year services. One standard is the regression/recoupment analysis. The IEP team would determine if the degree of regression the student is experiencing jeopardizes his/her ability to learn during the regular school year, and the amount of time needed for the student to regain the skills learned, leading to the overall ability to make meaningful progress.

Other factors to consider:

- The nature and severity of the child's disability
- The ability of the child's parents to provide educational structure at home
- The child's behavioral and physical needs
- Emerging skills and breakthrough opportunities
- The ability of the student to interact with nondisabled peers
- The student's vocational needs
- Areas of the student's curriculum that need attention
- If the requested services are extraordinary for the student's condition as opposed to an integral part of a program for those with the student's condition

Consideration of a broad range of detailed information such as parent/teacher communications, work samples, test results, homework, report cards, progress reports, and parent observations are all helpful in determining the student's ability to reach and/or maintain his/her identified goals and objectives.

Creating a schedule for collecting this information allows the IEP team to review a student's progress towards his/her IEP goals and objectives to better determine the student's need for special education services during school breaks.

300.309

Extended school year services.

(a) General

- (1) Each LEA shall ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.
- (2) Extended school services must be provided only if a child's IEP team determines, on an individual basis, in accordance with these regulations, that the services are necessary for the provision of FAPE to a child.
- (3) In implementing the requirements of this section, a public agency may not –
 - (i) Limit extended school year services to particular categories of disability; or
 - (ii) Unilaterally limit the type, amount, or duration of those services.
- (4) The school year for children who have severe or profound mental retardation or multiple disabilities and who have physical or sensory impairments in combination with other severe disability conditions shall consist of a minimum of two hundred and thirty (230) days. During the additional fifty

(50) days to the typical 180 day school year, services shall be determined by the IEP team and provided in the least restrictive environment, which may include community based settings with children without disabilities.

- (5) Nothing in these regulations shall be construed so as to deny the provisions of extended school year services to children with disabilities other than those referenced in subsection 4 of this section. Such services shall be based on the diagnosed needs of the child, the findings of the evaluation team and shall be described in the child's IEP.

(b) Definition. As used in these regulations, the term extended school year services means special education and related services that –

- (1) Are provided to a child with a disability –
 - (i) Beyond the normal school year of the LEA;
 - (ii) In accordance with the child's IEP; and
 - (iii) At no cost to the parents of the child; and
- (2) Meet the standards of the SEA.

RI Regs. p.34

Please refer to the document "Frequently Asked Questions Regarding Extended School Year" and the "IEP Guidebook, p.28, for more information on ESY.

IV.4-Ib

Must a school district provide related services that are required to assist a child with a disability to benefit from special education, whether or not those services are included in the list of related services?

The list of related services is not meant to be complete but rather a list of most related services. With that in mind, IEP teams may identify additional related services necessary to help a child benefit from special education. The school district must provide these services.

The list of related services is not exhaustive and may include other developmental, corrective, or supportive services if they are required to assist a child with a disability to benefit from special education. This could, depending upon the unique needs of a child, include such services as nutritional services or service coordination.

These determinations must be made on an individual basis by each child's IEP team. (Federal Register, Friday, March 12, 1999, Question 34, p. 12479)

IV.4-Ic

What are supplementary aids and services?

The IEP must describe the supplementary aids and services including modifications and accommodations and support to school personnel that the student with disabilities would need to:

- a) achieve his/her IEP goals;
- b) have access and opportunity within the general curriculum;
- c) participate in extracurricular and other nonacademic activities; and
- d) be educated and participate with other children with disabilities and nondisabled children.

300.28

Supplementary aids and services

As used in these regulations, the term supplementary aids and services means, aids, services, and other

supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with these regulations 300.550-300.556. *RI Regs. pp.20*

IV.4-Id

Would assistive technology be considered a supplementary aid and service?

Yes, Assistive Technology (AT) devices and services would be considered supplementary aids and services.

Each child's IEP team must consider the child's need for assistive technology (AT) in the development of the child's IEP(300.346(a)(2)(v); and the nature and extent of the AT devices and services to be provided to the child must be reflected in the child's IEP(300.346(c)).

A public agency must permit a child to use school-purchased assistive technology devices at home or in other settings, if the IEP team determines that the child needs access to those devices in nonschool settings in order to receive FAPE (to complete homework, for example).

Any assistive technology devices that are necessary to ensure FAPE must be provided at no cost to the parents, and the parents cannot be charged for normal use, wear and tear. However, while ownership of the devices in these circumstances would remain with the public agency, State law, rather than Part B, generally would govern whether parents are liable for loss, theft, or damage due to negligence or misuse of publicly owned equipment used at home or in other settings in accordance with a child's IEP. (Federal Register, Friday, March 12, 1999, Question 36, p. 12479)

Assistive technology devices include any item or product system, acquired commercially off the shelf, modified, or customized, that is used to maintain, or improve the

functional capabilities of a child with a disability. (Refer to RI Regs.300.5 p.8)

Assistive technology service includes any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device.

The service may include –

- (a) The assessment of the needs of a child with a disability, including a functional evaluation of the child in his/her customary environment;
- (b) Purchasing, leasing, or otherwise providing assistive technology devices for children with disabilities;
- (c) Selecting, designing, customizing, maintaining, repairing, or replacing assistive technology devices;
- (d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- (e) Training or technical assistance for a child with a disability or, if appropriate, that child's family and/or educators. This training may be ongoing;
- (f) Training or technical assistance for professionals (including those providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child. (Refer to RI Regs. 300.6. pp8-9)

IV.4-If

What is the difference between an accommodation and a modification?

Accommodations are changes made in how a student accesses/demonstrates learning. They do not substantially change instructional level or content. Accommodations provide students equal access to learning and equal opportunity to demonstrate what they have learned. They are based on individual strengths and needs and may vary in degree.

Modifications are changes in what a student is expected to learn and demonstrate. They change the instructional level or benchmark and may vary in content. Modifications affect the number of key concepts mastered within a benchmark or unit of study.

Table III
Comparisons of Accommodations and Modifications

Accommodations	Modifications
Changes in how the student accesses or demonstrates learning	Changes in level or content
A student in first grade creates a story using a voice activated computer.	A student in first grade creates a story using picture cards
A student in third grade who has a vision impairment works on math in the general education classroom using a large print text and large button calculator and a table of facts to refer to for multi step math problems such as long division.	A student in third grade is given multi step math problems that only require addition and subtraction to solve.
A sixth grader with hearing impairment uses a personal FM system to hear his classroom teachers' lectures, and also uses an ASL interpreter during school events.	A sixth grader with a hearing impairment is not required to switch classes based on bells but has a student partner who assists with this organization component
A student in 4 th grade spells weekly the 15 spelling words per week orally	A student in 4 th grade is only given 5 spelling words per week – class gets 15 spelling words per week
A seventh grade student uses a computer to create a written response to a question on a social studies test	A seventh grade student answers questions for tests in the form of fill ins and multiple choice.
An eighth grade student takes written tests in a small, quiet setting such as the resource room	A teacher discusses content material with an eighth grade student in order to assess his/her understanding of the subject matter
A 10 th grade student listens to reading selections on tape or has them read to her	A 10 th grade student reads selections at a lower level of difficulty, e.g., 6 th grade level.

IV.4-Ig

What are supports to school personnel?

Such supports include training, advice and other services school personnel need to provide the special education and related services or supplementary aids and services specified on the student's IEP. Examples of supports would be consultations by other professionals, such as

- a behavioral specialist
- assistive technology consultant
- professional development, such as inservice on using particular AT hardware or software, etc.

IV.4-Ih

Must the frequency and duration of services be specified in the IEP?

Yes, the amount of services to be provided must be stated in the IEP, so that the level of the agency's commitment of resources will be clear to parents and other IEP team members (300.347(a)(6). The amount of time to be committed to each of the various services to be provided must be (1) appropriate to the specific service, and (2) stated in the IEP in a manner that is clear to all who are involved in both the development and implementation of the IEP.

The amount of a special education or related service to be provided to a child may be stated in the IEP as a range (e.g. speech therapy to be provided three times per week for 30-45 minutes per session) only if the IEP team determines that stating the amount of services as a range is necessary to meet the unique needs of the child. For example, it would be appropriate for the IEP to specify, based upon the IEP team's determination of the student's unique needs, that particular services are needed only under specific circumstances, such as the occurrence of a seizure or of a particular behavior. A range may not be used because of personnel shortages

or uncertainty regarding the availability of staff. (*Federal Register*, Friday, March 12, 1999, Question 35, p. 12479)

IV.4-Ii

How can a team ensure that the student with a disability receives services in the least restrictive environment?

In determining the special education and related services needed by a student with a disability, the IEP team must first consider the student's strengths, needs, goals and objectives. Then the Team must determine what supplementary aids and services, including assistive technology devices and services, would be needed to assist the student in meeting his/her needs within the regular classroom. Only if the Team determines that the student's needs, and thus, his/her goals and objectives, cannot be met within the regular classroom or other natural setting, even with the use of supplementary aids and services, can services and programs removed from the regular classroom be considered. Consequently, decisions about services must be one of the last things decided by the IEP team. The decisions cannot be made by the Evaluation Team as part of the evaluation process prior to the development of the student's IEP.

*Section 300.347 (a)(4) requires that each child's IEP include "An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular classroom and in [extracurricular and other nonacademic] activities***". This is consistent with the least restrictive environment (LRE) provisions at 300.550-300.553, which include requirements that:*

- (1) *each child with a disability be educated with nondisabled children to the maximum extent appropriate;*
- (2) *each child with a disability be removed from the regular education environment only when the nature or severity of the child's disability is such that education in regular classes with the use of supplementary aids and services*

cannot be achieved satisfactorily; and

- (3) to the maximum extent appropriate to the child's needs, each child with a disability participates with nondisabled children in nonacademic and extracurricular services and activities.

All services and educational placements under Part B must be individually determined in light of each child's unique abilities and needs, to reasonably promote the child's educational success. Placing children with disabilities in this manner should enable each disabled child to meet high expectations in the future.

Although Part B requires that a child with a disability not be removed from the regular educational environment if the child's education can be achieved satisfactorily in regular classes with the use of supplementary aids and services, Part B's LRE principle is intended to ensure that a child with a disability is served in a setting where the child can be educated successfully. Even though IDEA does not mandate regular class placement for every disabled student, IDEA presumes that the first placement option considered for each disabled student by the student's placement team, which must include the parent, is the school the child would attend if not disabled, with appropriate supplementary aids and services to facilitate such placement. Thus, before a disabled child can be placed outside of the regular educational environment, the full range of supplementary aids and services that if provided would facilitate the student's placement in the regular classroom setting must be considered. Following that consideration, if a determination is made that a particular disabled student cannot be educated satisfactorily in the regular educational environment, even with the provision of appropriate supplementary aids and services, that student then could be placed in a setting other than the regular classroom. Later, if it becomes apparent that the child's IEP can be carried out in a less restrictive setting with the provision of appropriate supplementary aids and services, if needed, Part B would require that the child's placement be changed from the more restrictive setting to a less

restrictive setting. In all cases, placement decisions must be individually determined on the basis of each child's abilities and needs, and not solely on factors such as category of disability, significance of disability, availability of special education and related services, configuration of the service delivery system, availability of space, or administrative convenience. Rather each student's IEP forms the basis for the placement decision.

Further a student need not fail in the regular classroom before another placement can be considered. Conversely, IDEA does not require that a student demonstrate achievement of a specific performance level as a prerequisite for placement into a regular classroom. (Federal Register, Friday, March 12, 1999, Question 1, p. 12471).

In making the decision about services then, the IEP team should ensure the following:

1. Since the IEP is reviewed and revised annually and decisions about services are based on the IEP, services for each student with a disability must be determined at least annually by the IEP team members.
2. The IEP team should consider what supplementary aids and services could be provided to accommodate the student's needs within the regular classroom, before considering settings removed from the nondisabled population.
3. If the student's needs cannot be met in the regular classroom with the provision of supplementary aids and services, the student must be placed in the least restrictive alternative, among the array of services, that can meet the student's needs on the basis of his or her IEP.

Array of Services:

- Regular education classroom with special education consultation

- Part-time placement in regular education classroom with supplementary part time placement for a portion of the school day or of the school week in a separate area set aside for intensive, individual, small group instruction
- Placement in special education classes for less than fifty percent of the student's day
- Part-time placement in regular education classroom with supplementary part-time placement in self-contained special education classroom (If child is in a special education classroom for more than fifty per cent of his/her school day, it is considered a self contained placement even though the classroom may not be referred to as a self contained placement.)
- Full-time placement in a self contained special education classroom
- Home or hospital instruction
- Special day school
- Special education residential placement

(Refer to RI Regs. 300.551, p. 80-81)

4. Each student with a disability should be placed in a program in the student's neighborhood school, or the school the student would attend if he were nondisabled. If this is not possible s/he should be placed as close to the student's home as possible.
5. The decision about placement must be based on the student's needs and not on category of disability, significance of disability, availability of special education and related services, configuration of the service delivery system, availability of space, or administrative convenience.
6. Students with disabilities must also be given opportunities to participate with nondisabled

peers in nonacademic and extracurricular activities.

(Refer to RI Regs. 300.552, pp.86-87)

IV.4-J

Can students with disabilities be exempted from state and district assessments?

No. All public school students in Rhode Island are expected to participate in state and district required assessments. In the past, many students have been excluded from assessments for a variety of reasons. Through Article 31, it is the intent of the General Assembly that schools succeed with all students. Therefore, virtually all students shall be included in the state and district required Assessment Program.

There are three ways in which all students can participate in any assessment:

- 1) take the assessment with no accommodations;
- 2) take the assessment with accommodations;
- 3) take an alternate assessment.

The decision as to whether or not a student with a disability will take an assessment with accommodations, with no accommodations, or will take an alternate assessment is made by the student's IEP team and is documented on the IEP form.

300.138

Participation in assessments.

The LEA must have on file with the RIDE and for public review, information to demonstrate that-

- (a) Children with disabilities are included in general State and district- wide assessment programs, with appropriate accommodations and modifications in administration, if necessary;
- (b) The LEA must adhere to the RIDE procedures relative to the participation of children with disabilities in alternate assessments for those children who cannot participate in State and district –wide assessment programs.

(RI Regs, p.29)

300.347

Content of IEP

- (a) General. The IEP for each child with a disability must include-...
 - (5)(i) A statement of any individual modifications in the administration of State or district-wide assessments of student achievement that are needed in order for the child to participate in the assessment; and
 - (ii) If the IEP team determines that the child will not participate in a particular State or district-wide assessment of student achievement (or part of an assessment), a statement of
 - (A) Why that assessment is not appropriate for the child; and
 - (B) How the child will be assessed.

RI Regs. pp.43

IV.4-Ja

What type of accommodations can be used in state and district assessments?

Accommodations are changes in the way an assessment is administered. One way to think about accommodations is in terms of what is changed. There are at least *five* general categories of assessment accommodations:

1. The setting in which the assessment is administered (e.g., small group setting)
2. The timing of the assessment (e.g., extended time)
3. The scheduling of assessment administration (e.g., specific time of day)
4. How the assessment is presented (e.g., Braille)
5. The manner in which the student makes responses to an assessment. (e.g., oral response into tape recorder).

For a complete listing of assessment accommodations, please refer to the following RIDE publications: *Rhode Island State Assessment Program: Requirements for Student Participation and Assessment Accommodations* and the *IEP Guidebook* p.70-71.

IV.4-Jb

Can an IEP team identify accommodations that are not listed in the (*Rhode Island State Assessment Program Requirements for Student Participation and Assessment Accommodations?*)

Yes, however, the Assessment Accommodations chart in the publication *Rhode Island State Assessment Program Requirements for Student Participation and Assessment Accommodations*, indicates whether use of a particular accommodation is appropriate given the purpose of the assessment. If the use of an accommodation is indicated

as inappropriate, this means that its use would change the meaning of the results; that is the test would no longer be measuring what it was designed to measure. The use of an inappropriate accommodation would make the results of the assessment invalid. IEP teams should refer to the accommodations chart for guidance on which accommodations are appropriate for each test. The building testing coordinator should inform IEP teams if they are recommending accommodations that would invalidate the score.

IV.4-Jc

How do you determine participation in statewide assessments for students with disabilities who are in ungraded classrooms?

All students with disabilities are expected to participate in state-required assessments. Most students will take the assessments for their grade level. Their grade level should be indicated on the front page of the IEP form in the space titled “Current Grade”. Children with IEPs should be placed in grades that are within a two-year range of their age appropriate grade level.

In deciding which assessments are appropriate in any given year for students in ungraded classrooms (such as special day school classrooms), the Rhode Island Department of Education provides a table identifying the grade that would apply based on the student’s age (i.e., year of birth). For example, during the 2000-2001 school year, students in ungraded classrooms born in 1985 would have taken assessments for 10th graders. For a copy of the most current chart, listing grades and corresponding years of birth, teams/schools should contact their state/district assessment coordinator.

IV.4.Jd

Do the accommodations listed on the IEP for statewide assessments need to be provided for building and district assessments?

Yes. Many districts administer assessments, sometimes on a yearly basis, to monitor student and district progress on standards-based instruction. The same decisions made by the IEP team for statewide assessments (i.e., no accommodations, assessments with accommodations, or alternate assessments) **must** apply to district assessments and should be consistently applied to building assessments.

IV.4-Je

Who qualifies for an alternate assessment?

Only a small number of students, 1-2% of students with disabilities, are eligible for alternate assessments. Students taking the alternate assessment are those whose cognitive functioning is significantly below age expectations, even with program modifications and adaptations. These are students who, even with accommodations, are unable to participate meaningfully in state assessment, *and* who meet state eligibility guidelines for alternate assessment. Please refer to p.77 of the *IEP Guidebook* for a copy of the *Criteria for Student Eligibility in Alternate Assessment*.

The IEP team is the only group that can decide if a student should be provided an alternate assessment. This decision must be documented on the IEP, and a copy of the completed *Criteria for Student Eligibility in Alternate Assessment* should be placed in the student’s file.

IV.4.Jf

If a child with a disability's age or grade peer group is not being assessed on a state or district assessment in a given year, does the IEP team need to complete the state district assessment statement on the IEP?

Yes. State assessments are currently given according to the following timetable:

- Writing Assessment - Grades 3,7,11
- Health Education Assessment -Grades 5 and 9
- New Standards English Language Arts Examination -Grades 4, 8 and 10
- New Standards Math Examination - Grades 4, 8, and 10

However, in light of recent federal legislation, it is anticipated that the New Standards English Language Arts and Math Exams will be given annually to all students in grades 3-8. Please consult with your state or district assessment coordinator for a listing of the assessments by grade level for each given year.

Even if the student, because of his/her grade or age, will not take a state assessment during the time period of the current IEP, the IEP team should complete the section of the IEP addressing state and district assessments. The district may administer district assessments during the time frame of an IEP, and an IEP team must consider the need for accommodations for either state or district assessments. In addition, the accommodations provided for state and district assessments should be consistent with those provided in instruction and assessment in the classroom.

IV.4-Jg

Who is responsible for ensuring that the accommodations on state and district assessments identified on the IEP are implemented?

The contact person identified on the student's IEP should make sure the building administrator responsible for implementing the state assessment program in that school building is aware of the accommodations that need to be provided for that student's IEP. In planning the implementation of accommodations for students on state and district assessments, it is recommended that the building administrator follow the *Suggested Logistics for Planning Accommodations* found on p. 74 of the *IEP Guidebook*.

IV.4-Jh

Who determines the accommodations?

Decisions related to the student's participation on state and district assessments, (i.e., assessment with no accommodations, assessment with accommodations, or alternate assessment) and if appropriate, on the type of accommodations that will be provided to the student, are made by the IEP team.

IV.4-Ji

Can modifications be used on statewide assessments

Accommodations do not substantially change the content or level of material. They do make changes in the ways a student accesses or demonstrates learning as long as the change does not invalidate the test. For example, on the writing assessment the assignment could be read to the student. Reading the question changes the way the student accesses the material, but does not change

its content or level of difficulty. However, on the reading comprehension test the question could not be read to the student since the test is a test of reading. If someone read the question to the student, the test would not provide information on the student's reading comprehension – the purpose of the test.

The approved list of accommodations for statewide assessments is provided in the RIDE publication *Rhode Island State Assessment Program: Requirements for Student Participation and Assessment Accommodations* and on pp. 70-71 of the *IEP Guidebook*.

Only accommodations are allowed on state assessments. Modifications, by definition, change what a student is expected to demonstrate and thus are not allowed. Modifications can change the instructional level, (e.g., giving a 10th grader a fourth grade passage to read, instead of a 10th grade passage) or they can vary the content, (e.g., instead of word problems that require the student use algebra to solve the problem, the student is provided word problems that require simple computations using whole numbers). These modifications are not allowed on state assessments.

Please refer to the chart on page 29 of this manual to view comparisons of accommodations and modifications that could be made in instruction. There should be consistency among accommodations made for instruction and those required for state or district assessments.

IV.4-Jj

What is the relationship between the accommodations and modifications identified for instruction on the supplementary aids and services page of the IEP and the state and district assessment page?

When developing the IEP, Teams should consider the accommodations used or needed during instruction and

assessment in the classroom, particularly in the areas of setting, presentation, scheduling, timing, and response. These accommodations should also be considered for state and district assessments. Please refer to the *Option Classroom Teacher Worksheet: Accommodations for Instruction, Test and Assignments* for assistance in completing the Supplementary Aids and Services and State-wide and District Assessment sections of the IEP located on p. 79 of the *IEP Guidebook*.

There should be consistency between the accommodations specified on the IEP for classroom instruction and assessment and for state and district assessments. For example, children who need to have material read to them will also need to have assessment items on state and district assessments read to them (except when it would invalidate the test, such as on the reading comprehension assessment). Students who need to use a word processor for written assignments during instruction, should also have that accommodation provided during state and district assessments.

In the supplementary aids and services section of the IEP, the IEP team can describe modifications, as well as the accommodations, that the student will need to progress in the general curriculum or achieve IEP goals. However, **since modifications change the level of difficulty or the content of the test, they are not allowed on statewide and district assessments.**

IV-5

What happens after the IEP team completes development of the IEP?

The actual procedures followed after the IEP is completed may vary from district to district. In some districts, when the IEP is developed it is forwarded by the IEP team to the Director of Special Education. S/he then notifies the parents of the proposed location and beginning date of the student's program, the details of the special education placement and services, notice that consent is required for an initial placement, and in such cases a form for the parent to sign and return. In

other districts, the school department may choose to combine the development of the IEP with the written notice of placement and parent consent. The IEP may then serve as the written notice of placement and parent consent. Although it is common practice to have the parents, and school district representative sign the IEP, the signatures are not required by law. However, most advocates, parents and school representatives find such signatures helpful for documenting attendance, parental approval, and documentation of the services the agency has agreed to provide.

IV-6

Can a student with disabilities receive special education services before the IEP is developed?

No, the appropriate placement for a particular child with a disability cannot be determined until after decisions have been made about the child's needs and the services that the public agency will provide to meet those needs. These decisions must be made at the IEP meeting, and it would not be permissible first to place the child and then develop the IEP. Therefore, the IEP must be developed before placement. (Further, the child's placement must be based, among other factors, on the child's IEP.) (Federal Register, Friday, March 12, 1999, Question 14, p. 12475).

IV-7

What happens when the school department and the parent are unable to agree on the IEP?

Every effort should be made to come to an agreement concerning issues related to the IEP. If, however, this is not achieved, the focus should remain on the FAPE of the child. An assurance that FAPE exists as further measures are pursued, such as informal mediation or more formal due process hearings, is of ultimate concern.

The IEP meeting serves as a communication vehicle between parents and school personnel, and enables them, as equal participants, to make joint, informed decisions regarding the (1) child's needs and appropriate goals; (2) extent to which the child will be involved in the general curriculum and participate in the regular education environment and State and district-wide assessments; and (3) services needed to support that involvement and participation and to achieve agreed-upon goals. Parents are considered equal partners with school personnel in making these decisions, and the IEP team must consider the parents' concerns and the information that they provide regarding the child in developing, reviewing, and revising IEPs.

The IEP team should work toward consensus, but the public agency has ultimate responsibility to ensure that the IEP includes the services that the child needs in order to receive FAPE. It is not appropriate to make IEP decisions based upon a majority "vote". If the team cannot reach consensus, the public agency must provide the parents with prior written notice of the agency's proposals or refusals, or both, regarding the child's educational program, and the parents have the right to seek resolution of any disagreements by initiating an impartial due process hearing.

Every effort should be made to resolve differences between parents and school staff through voluntary mediation or some other informal step, without resort to a due process hearing. However, mediation or other

informal procedures may not be used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under Part B. (Federal Register March 12, 1999, Question 9, pp.12473-12474)

IV-8

If the parents and school district are unable to come to agreement, what happens to the student during the interim?

The student would continue in the current placement with modifications and accommodations that are necessary to provide as much assistance as possible. Placement changes require parental consent and will not take place until agreement is reached.

300.514

Child's Status during proceedings.

- (a) Except for provided in 300.526, during the pendency of any administrative or judicial proceeding regarding a complaint for due process, unless the State or local agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her current educational placement.
- (b) If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school until the completion of all the proceedings.
- (c) If the decision of a hearing officer in a due process hearing agrees with the child's parents that a change of placement is appropriate, that placement must be treated as an agreement between the State or local agency and the parents for purposes of paragraph (a) of this section. *RI Regs. p.64*

IV-9

Is it permissible for the district to have the IEP completed before the IEP meeting begins?

No, Agency staff may come to an IEP meeting prepared with evaluation findings and proposed recommendations regarding IEP content, but the agency must make it clear to the parents at the outset of the meeting that the services proposed by the agency are only recommendations for review and discussion with the parents. Parents have the right to bring questions, concerns, and recommendations to an IEP meeting as part of a full discussion, of the child's needs and the services to be provided to meet those needs before the IEP is finalized.

Public agencies must ensure that, if agency personnel bring drafts of some or all of the IEP content to the IEP meeting, there is a full discussion with the child's parents, before the child's IEP is finalized, regarding drafted content and the child's needs and the services to be provided to meet those needs. (Federal Register March 12, 1999, Question 32, pp12478-12479)

IV-10

When must the IEP be implemented?

Once the IEP is written it should be implemented within 10 days. If a transition process is needed, then that should be a part of the IEP specifications. ...*Section 300.343(b)(2) provides that an IEP must be implemented as soon as possible following the meeting*

in which the IEP is developed. (Federal Register March 12, 1999, Question 18, p12476)

300.342

When IEPs must be in effect.

- (a) **General.** At the beginning of each school year, each LEA shall have an IEP in effect for each child with a disability within its jurisdiction.
- (b) **Implementation of IEPs.** Each LEA shall ensure that –
 - (1) An IEP –
 - (i) Is in effect before special education and related services are provided to an eligible child under these regulations, and
 - (ii) Is implemented as soon as possible but no later than ten (10) school days following the IEP meeting. *RI Regs. p.37*

IV-11

Is there a prescribed format or length for an IEP?

No, specific components of the IEP are defined as part of the IEP form. All of the appropriate components must be completed.

IV-12

Who Must have access to the IEP?

All the student's teachers and the service providers who work with the student should have access to the IEP.

300.342

Access to the IEP

- (2) The child's IEP must be accessible to each regular education teacher, special education teacher, related service provider, and other service provider, who is responsible for its implementation; and
- (3) Each teacher and provider must be informed of-
 - (i) His or her specific responsibilities related to implementing the child's IEP; and
 - (ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP. *RI Regs. pp.37-38*

IV-13

How are IEPs developed for students attending parochial or private schools?

IEPs for children who attend private schools are developed in the same way as those for children who attend a public school. The IEP team develops the IEP. The member of the team who fills the role of special educator and those who will provide services must have the same qualifications as their counterparts in the public agency or the LEA must provide special educators. The child with a disability who attends a private school is entitled to a FAPE.

...the SEA must ensure that every eligible child with a disability in the State has FAPE available, regardless of which State or local agency is responsible for educating the child... When an LEA is responsible for the education of a child with a disability, the LEA remains responsible for developing the child's IEP, regardless of the public or private school setting into which it places the child. (Federal Register March 12, 1999, Question 15, p 12476)

300.451

Child Find For Private School Children with Disabilities

- (a) Each LEA shall locate, identify, and evaluate all private school children with disabilities, including religious-school children residing in the jurisdiction of the LEA. The activities undertaken to carry out this responsibility for private school children with disabilities must be comparable to activities undertaken for children with disabilities in public schools.
- (b) Each LEA shall consult with appropriate representatives of private school children with disabilities on how to carry out the activities described in paragraph (a) of this section.

300.452

Provision of services – basic requirement.

- (a) General. Each LEA shall make a FAPE available to eligible students with disabilities who are enrolled by their parents in private schools.
- (b) LEA Responsibility. Each LEA shall ensure that, an IEP is developed and implemented for each eligible child with a disability enrolled by their parents in a private school and that the child is afforded all of the rights of a child with a disability served by the LEA.

300.454

Services determined.

- (1) A private school child with a disability has a right to a FAPE.
- (2) Decisions about the services that will be provided to private school children with disabilities must be made by the IEP team.

300.455

Services provided.

- (a) General.
 - (1) The services provided to private school children with disabilities by the LEA must be provided by personnel meeting the same standards as personnel providing services in the public schools.
- (b) Services provided in accordance with an IEP.
 - (1) Each private school child with a disability who has been designated to receive special education and related services must have an IEP. RI Regs. p.48

IV-14

If decisions about services are made at the time the IEP is developed, how can a private school representative attend the meeting?

Every effort should be made to ensure that a representative of a private school is in attendance at the IEP meeting. If this is not possible, a phone conference could be used.

300.349

Private School Placements by Public Agencies.

- (a) Developing IEPs.
 - (1) Before a LEA places a child with a disability in, or refers a child to, a private school or facility, the agency shall initiate and conduct a meeting to develop an IEP for the child.
 - (2) The LEA shall ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.
- (b) Reviewing and revising IEPs.
 - (1) After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the LEA.
 - (2) If the private school or facility initiates and conducts these meetings, the LEA shall ensure that the parents and an agency representative—
 - (i) Are involved in any decision about the child's IEP; and
 - (ii) Agree to any proposed changes in the IEP before those changes are implemented.
- (c) Responsibility. Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the LEA.

RI Regs. pp.44

IV-15

What are interim iep's?

Interim IEPs are temporary IEPs developed for very specific situations. For example, an interim IEP is developed for children aged three (3) through five (5) for a period of no more than 30 days, and is used to determine educational objectives and the appropriate placement for an eligible child with a disability. Interim IEPs may also be developed for students who have moved from one educational community to another if the receiving district has decided to develop a new IEP for the child rather than implement the IEP developed by the former district. (See question IV-16 below for a further elaboration of requirements for students who move from one school district to another.)

300.551(B)

Array of educational settings for children aged three (3) through five (5).

- (1) Temporary placement in any educational setting as described in this Section, for a period of no more than thirty (30) days, when necessary to aid in determining educational objectives and the appropriate placement for an eligible child with a disability. Prior to such placement, an interim individualized education program (IEP) or individualized family service plan (IFSP) shall be developed which specifies the conditions and timelines for the temporary placement. Upon the close of the interim period, an individualized education program (IEP) or individualized family service plan (IFSP) meeting shall be conducted to finalize the child's individualized education program (IEP) or individualized family plan (IFSP), RI regs p. 81.

IV-16

If a student with a disability has been receiving special education in one school district and moves to another community, must the new school district hold an IEP meeting before the student is placed in special education?

No, the child's program and placement would be followed in the new district. If any special modifications or services or devices are used, these too would be continued in the new district.

The new public agency must ensure that that the child has an IEP in effect before the agency can provide special education and related services. The new public agency may meet this responsibility by either adopting the IEP the former public agency developed for the child or by developing a new IEP for the child. (The new public agency is strongly encouraged to continue implementing the IEP developed by the former public agency if appropriate, especially if the parents believe their child was progressing appropriately under the IEP.)

Before the child's IEP is finalized, the new public agency may provide interim services agreed to by both the parents and the new public agency. If the parents and the new public agency are unable to agree on an interim IEP and placement, the new public agency must implement the old IEP to the extent possible until a new IEP is developed and implemented.

In general, while the new public agency must conduct an IEP meeting, it would not be necessary if: (1) A copy of the child's current IEP is available; (2) the parents indicate that they are satisfied with the current IEP; (3) the new public agency determines that the current IEP is appropriate and can be implemented as written.

If the child's current IEP is not available, or if either the new public agency or the parent believes that it is not appropriate, the new public agency must develop a new IEP through appropriate procedures within a short time

after the child enrolls in the new public agency (normally within one week). (Federal Register March 12, 1999, Question 17, p 12476)

IV-17

May IEP meetings be audio or video recorded?

This matter is not addressed in current regulations. It is, therefore, a decision of the LEA or agency.

Part B does not address the use of audio or video recording devices at IEP meetings and no other federal statute either authorizes or prohibits the recordings of an IEP meeting by either a parent or a school official. Therefore, an SEA or public agency has the option to require, prohibit, limit, or otherwise regulate the use of recording devices at IEP meetings. If a public agency has a policy that prohibits or limits the use of recording devices at IEP meetings, that policy must provide for exceptions if they are necessary to ensure that the parent understands the IEP or the IEP process or to implement other parental rights guaranteed under Part B. An SEA or school district that adopts a rule regulating the tape recording of IEP meetings also should ensure that it is uniformly applied. ...Parents wishing to use audio or video recording devices at IEP meetings should consult State or local policies for further guidance. (Federal Register March 12, 1999, Question 21, p. 12477)



5. IEP Process: Review, Revision, Reevaluation

V.1

What happens at the time of the annual review and revision?

Each student with a disability must have his/her IEP reviewed at least annually. It can be reviewed sooner if a parent or teacher feels that the program and services defined on the student's IEP are not meeting the student's needs. The participants at the meeting should review the student's current IEP to determine whether or not the goals and objectives have been met (i.e., whether the criteria specified for the individual objectives have been achieved).

In order to make this determination each service provider should have gathered specific information through observation, teacher made or commercial tests, work samples, etc. If the goals and objectives have not been met, the service provider should be able to offer specific reasons based on the information s/he has gathered. Based on a determination of this year's present level of performance, related goals and objectives should be specified. Finally, the services the student needs to meet future goals and objectives should also be noted.

A public agency must initiate and conduct meetings periodically, but at least once every twelve month, to review each child's IEP, in order to determine whether the annual goals for the child are being achieved, and

to revise the IEP, as appropriate, to address: (a) Any lack of expected progress toward the annual goals and in the general curriculum, if appropriate; (b) the results of any reevaluation; (c) information about the child provided to, or by, the parents; (d) the child's anticipated needs; or (e) other matters.

A public agency also must ensure that an IEP is in effect for each child at the beginning of each school year...It must ensure that the IEP contains the necessary special education and related services and supplementary aids and services to ensure that the student's IEP can be appropriately implemented during the next school year. Otherwise, it would be necessary for the public agency to conduct another IEP meeting. Although the public agency is responsible for determining when it is necessary to conduct an IEP meeting, the parents of a child with a disability have the right to request an IEP meeting at any time. For example, if the parents believe that the child is not progressing satisfactorily or that there is a problem with the child's current IEP, it would be appropriate for the parents to request an IEP meeting.

If a child's teacher feels that the child's IEP or placement is not appropriate for the child, the teacher should follow agency procedures with respect to: (1) calling or meeting with the parents or (2) requesting the agency to hold another IEP meeting to review the child's IEP.

The legislative history of Public Law 94-142 makes it clear that there should be as many meetings a year as any one child may need (121 Cong. Rec. S20428-29 (Nov. 19, 1975)(remarks of Senator Stafford)). Public agencies should grant any reasonable parent request for an IEP meeting. For example, if the parents question the adequacy of services that are provided while their child is suspended for short periods of time, it would be appropriate to convene an IEP meeting. (Federal Register, Friday, March 12, 1999, Question 20, pp. 12476-12477).

300.343

IEP Meetings.

- (c) Review and revisions of IEPs. Each LEA shall ensure that the IEP team-
- (1) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and
 - (2) Revises the IEP as appropriate to address-
 - (i) Any lack of expected progress toward the annual goals described in the IEP, and in the general curriculum, if appropriate;
 - (ii) The results of any reevaluation conducted under these regulations,
 - (iii) Information about the child provided to, or by, the parents as described in these regulations,
 - (iv) The child's anticipated needs; or
 - (v) Other matters

RI Regs. pp.38-39

300.346

Development, review, and revision of IEP.

- (1) General. In developing each child's IEP, the IEP team, shall consider –
 - (i) The strengths of the child and the concerns of the parents for enhancing the education of their child;
 - (ii) The results of the initial or most recent evaluation of the child; and
 - (iii) As appropriate, the results of the child's performance on any general State or district-wide assessment programs.

- (2) Consideration of special factors. The IEP team also shall –
- (i) In the case of a child whose behavior impedes his or her learning or that of others, consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior;
 - (ii) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;
 - (iii) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;
 - (iv) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and
 - (v) Consider whether the child requires assistive technology devices and services.

- (b) Review and Revision of IEP. In conducting a meeting to review, and, if appropriate, revise a child's IEP, the IEP team shall consider the factors described in paragraph (a) of this section.

RI Regs. pp.41-42

300.350 IEP - Accountability.

- (c) Accountability. The IDEA does not require that any agency, teacher, or other person be held accountable if a child does not achieve the growth projected in the annual goals and benchmarks or objectives.

RI Regs. p.38

V.2

Who must participate in the meeting to review the IEP?

The IEP team needs to conduct the review of the IEP. The IEP team is described in depth in chapter four on page ____.

Team members include:

1. The student's parents
2. At least one regular education teacher of the student
3. At least one special education teacher of the student
4. A representative of the LEA
5. An individual who can interpret the implications of evaluation results (may be also fulfilling the role of 2, 3, or 4)

6. Other individuals who have knowledge or special expertise regarding the student (at the discretion of the parent or agency). This includes related service providers as appropriate.
7. The student when it is deemed appropriate

If the student is 14 years of age, or younger if appropriate, transition services participants need to attend the meeting

V.3

Who can initiate the IEP review/revision meetings and when shall they take place?

The regulations state that a child's IEP must be in effect at the beginning of each school year. Meetings must be conducted periodically, but not less than every twelve months. These meetings are initiated and conducted at the discretion of the public agency. Professionals who work with the child and parents may determine that an IEP meeting is warranted to provide FAPE to the child at any time during the twelve months.

Although the public agency is responsible for determining when it is necessary to conduct an IEP meeting, the parents of a child with a disability have the right to request an IEP meeting at any time. For example, if the parents believe that the child is not progressing satisfactorily or that there is a problem with the child's current IEP, it would be appropriate for the parents to request an IEP meeting. If a child's teacher feels that the child's IEP or placement is not appropriate for the child, the teacher should follow agency procedures with respect to: (1) calling or meeting with the parents or (2) requesting the agency to hold another IEP meeting to review the child's IEP. (Federal Register, Friday, March 12, 1999, Question 20, pg 12476).

V.4

Is the IEP a performance contract?

No. The function of the IEP is to plan a student's course of study in areas of need. The IEP is designed to measure progress toward the student's standards based goals. This is not the appropriate vehicle for determining a service provider's performance. The performance of the student is the focus of any evaluative information.

300.350

IEP accountability.

- (c) Accountability. The IDEA does not require that any agency, teacher, or other person be held accountable if a child does not achieve the growth projected in the annual goals and benchmarks or objectives.

RI Regs. pp.44-45

V.5

What is reevaluation?

3000.536

Reevaluation

Each LEA shall ensure-

- (b) That a reevaluation of each child, is conducted if conditions warrant a reevaluation, or if the child's parent or teacher requests a reevaluation, but at least once every three years.

RI Regs. p.77

The RI and Federal regulations require that an evaluation of the student with a disability be conducted every three years, or more frequent if conditions warrant it. The three-year evaluation is referred to as a reevaluation. During the annual review of the IEP in the year in which the reevaluation is due, the IEP team, and other qualified professionals as appropriate, will review existing evaluation data on the student, evaluations, and other information provided by the parents, assessments from the classroom, and observations by teachers and related service providers as appropriate. From this review the IEP team will decide if additional information is needed to determine if the student continues to be a student with a special need and meets the eligibility requirements for the particular category of disability. The additional information needed is to be listed in section 42 on the IEP document.

Chapter 6 IEP Related Topics

6. IEP Related Topics



In this chapter we will address three areas related to IEPs: Functional Behavior Assessments (FBAs)/ Behavioral Intervention Plans (BIPs), Individual Family Service Plans (IFSPs) and Section 504.

VI.1

Functional Behavioral Assessments

VI.1-A

What is a Functional Behavioral Assessment?

A Functional Behavior Assessment focuses on the relationship between the student's behavior and the environment. The process attempts to determine the function of the behavior. It evaluates the behavior in terms of its antecedents and consequences, that is, what may have preceded the behavior and what are the outcomes of the behavior. From this information hypotheses are generated about factors that may contribute to the behavior and its maintenance, i.e., the function of the behavior. Functional Behavioral Assessments serve as the basis for developing comprehensive positive behavior support plans referred to as Behavior Intervention Plans. For further information on Functional Behavioral Assessment and

Positive Behavior Supports consult the *FBA Manual* developed by Rhode Island Department of Elementary and Secondary Education or contact the Department consultant responsible for the Positive Behavior Supports initiative at 222-4600.

FBA's are required for eligibility decisions if a child is suspected of being a student with emotional disturbance, and for students with disabilities who have been suspended for 10 or more days cumulative within a school year. During the first ten days functional behavioral assessments are recommended, but not required. However, FBA's are good practice for any student demonstrating behavior that is a concern, even if the student is not being considered for the category of emotional disturbance or has not been suspended.

300.532 (l)(5) Emotional disturbance.

A specific clinical psychological or psychiatric assessment must be conducted for a student to be identified as having an emotional disturbance. A functional behavioral assessment and a sociological assessment are also required. RI. Regs. p.75

300.520(B) Removals for more than ten (10) days cumulative.

(b) Functional Behavioral Assessment/Behavioral Intervention Plan

- (1) Either before or not later than 10 business days after either first removing the child for more than 10 school days in a school year-
 - (i) If the LEA did not conduct a functional behavioral assessment and implement a behavioral intervention plan for the child before the behavior that resulted in the removal described in paragraph

(a) of this section, the agency shall convene an IEP meeting to develop an assessment plan.

- (ii) If the child already has a behavioral intervention plan, the IEP team shall meet to review the plan and its implementation, and, modify the plan and its implementation as necessary, to address the behavior.

- (2) As soon as practicable after developing the plan described in paragraph (b)(1)(i) of this section, and completing the assessments required by the plan, the LEA shall convene an IEP meeting to developing appropriate behavioral interventions to address that behavior and shall implement those interventions.

(c)

- (1) If subsequently, a child with a disability who has a behavioral intervention plan and who has been removed from the child's current educational placement for more than 10 school days in a school year is subjected to another removal from school, the IEP team shall review the behavioral intervention plan and its implementation to determine if modifications are necessary.
- (2) If one or more of the team members believe modifications are needed, the team shall meet to modify the plan and its implementation, to the extent the team determines necessary. RI Regs. pp.66-67

300.520(A)

Removals for less than ten (10) days cumulative.

- (a) To the extent the removal would be applied to children without disabilities, school personnel may remove a child with a disability from the child's current educational placement for ten (10) school days cumulative during the course of a school year.
- (b) During the first ten (10) school days of removal (cumulative) during the course of a school year, a LEA may, but is not required to-
 - (1) Provide educational services to the child;
 - (2) Conduct a manifestation determination prior to the disciplinary removal;
 - (3) Perform a functional behavioral assessment of the child; or
 - (4) Develop a behavioral intervention plan to address the behavioral factors such as the length of the removal, the total amount of time the child is removed, and the proximity of the removals to one another.

RI Regs. pp.65-66

VI.1-B

What is the role of the IEP Team regarding Functional Behavioral Assessments?

Since the IEP team reviews existing evaluation data and recommends what additional evaluations are needed, it also determines if an FBA is needed, obtains parental consent, and conducts it. Additional qualified personnel, such as behavioral specialists and/or school psychologists, may be added to the IEP team when a child with a behavioral problem is being reviewed and an FBA is recommended.

VI.1-C

Is an FBA attached to an IEP?

An FBA is an evaluation of a student's behavior. Like other evaluations, such as evaluation of academic achievement, it provides the IEP team with valuable information, on the student's strengths, needs, present level of performance, goals, accommodations and modifications, supplementary aids and services, and special education and related services. Thus information from the FBA, like other assessments, is embedded within the IEP. However, no assessments, including FBAs, are attached to the IEP. The FBA, like other evaluations, becomes part of the student's evaluation file.

VI.1-D

What is a Behavior Intervention Plan?

A Behavior Intervention Plan (BIP) is a positive behavioral support plan. It is considered an instructional or treatment plan, much like a lesson plan. As an instructional plan it is not attached to the IEP. It should be in the teacher's or related service provider's instructional or treatment file. Information from the IEP, such as short term objectives or benchmarks, modifications and accommodations and support to school personnel, is embedded within the BIP.

VI.1-E

Who develops the BIP?

For a student with a disability who has not been suspended, the BIP is developed and monitored by the IEP team or whomever the IEP team designates. For a student with a disability who has been suspended, the BIP is developed and monitored by the IEP team.

VI.1-F

What is a manifestation determination?

A manifestation determination is an IEP meeting conducted to determine if the behavior the student demonstrated that led to his/her suspension is related to the student's disability. If the IEP team finds that the behavior is a manifestation of the student's disability, it must review and revise the IEP. In doing so, it must conduct an FBA. The team must use the information from the FBA to revise the IEP. Then it must develop a BIP, an instructional or treatment plan, as a way to implement the IEP. The student cannot be removed from school for more than 10 school days cumulative.

If the IEP team determines that the behavior leading to the suspension was not a manifestation of the student's disability the relevant disciplinary procedures applicable to students without disabilities would apply, except the student must continue to receive services.

300.523

Manifestation determination.

- (a) General. If an action is contemplated regarding a student's behavior requiring a removal from school for more than ten (10) school days cumulative during the course of a school year, before the student can be further removed from school (for the 11th day or longer) for a violation of any rule or code of conduct that applies to all children, the LEA must first:
 - (1) notify the parent of the decision of the LEA to seek removal;
 - (2) provide the parents with the procedural safeguards notice described in 300.504, and
 - (3) reconvene an IEP meeting to conduct a manifestation determination to review the student conduct in relation to the child's

disability and the behavior subject to the disciplinary action.

- (b) Individuals to carry out review. A review described in paragraph (a) of this section must be conducted by the IEP team and other qualified professionals, as appropriate, in an IEP meeting.
- (c) Conduct of review. In carrying out a review described in paragraph (a) of this section, the IEP team and other qualified personnel may determine that the behavior of the child was not a manifestation of the child's disability only if the IEP team and other qualified personnel-
 - (1) First consider, in terms of the behavior subject to disciplinary action, all relevant information, including –
 - (i) Evaluation and diagnostic results, including the results or other relevant information supplied by the parents of the child;
 - (ii) Observations of the child; and
 - (iii) The child's IEP and placement; and
 - (2) Then determine that-
 - (i) In relationship to the behavior subject to disciplinary action, the child's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child's IEP and placement;
 - (ii) The child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action.
 - (iii) The child's disability did not impair the ability of the child to control the behavior subject to the disciplinary action.

- (d) Decision. If the IEP team and other qualified personnel determine that any of the standards in paragraph (c)(2) of this section were not met, the behavior must be considered a manifestation of the child's disability.
- (e) Meeting. The review described in paragraph (a) of may be conducted at an IEP meeting that is convened for other reasons not exclusive of manifestation determination.
- (f) Deficiencies in IEP or placement. If, in the review in paragraphs (b) and (c) of this section, a LEA identifies deficiencies in the child's IEP or placement or in their implementation, it must take immediate steps to remedy those deficiencies.

RI Regs. pp.68-69

VI.2

What is an Individual Family Service Plan (IFSP)?

VI.2-A

What is an Individual Family Service Plan (IFSP) and how is it related to the IEP?

The Individual Family Service Plan (IFSP) documents the services to be provided to eligible children with disabilities from birth to at least age three. From age three through age five the IFSP of a child with a disability may serve as the child's IEP, if the process for developing the IFSP and the IFSP document itself meet the requirements of the RI Regulations discussed in Chapter 4 of this manual on developing IEPs and their content. For children aged three through five the decision as to whether the IFSP will serve as the IEP for the child is made by the school district and the child's parents.

The major difference between the IFSP and the IEP is that the IFSP focuses on services to the family of the student with disabilities, while the IEP focuses on providing the child with disabilities the services he or she needs to have access to and opportunity in the general curriculum. Prior to the development of the plan, a family assessment is conducted to determine resources, priorities, and concerns of the family related to the development of the child. This information is used in the development of the IFSP, which also includes the child's present level of performance. Goals and outcomes are then written for the family as well as the child. A statement of the specific early intervention services necessary to meet the unique needs of the child and family to achieve the outcomes identified is also included. In addition, the IFSP documents the additional services and programs that a family participates in, along with the name of the Early Intervention (EI) provider who will assist the family in coordinating all services.

Other differences between the IFSP and the IEP relate to review and reevaluation. Review of the IFSP is ongoing and includes procedures that promote continuous, collaborative planning by family and professionals. A formal review must take place at least every six months, as opposed to annually as in the case of IEPs. Also, both family and child assessments must occur at least annually, as opposed to every three years for children with IEPs. School personnel should be sensitive to the differences between the two plans, as families transition from IFSPs to IEPs. In addition, school personnel must provide a detailed explanation of the differences between an IFSP and an IEP to families of children age three through age five, and if the parents choose an IFSP, the school personnel must obtain informed written consent from the parents.

300.342. (c)

IEP for children aged 3 through 5.

- (1) In the case of a child with a disability aged 3 through 5 an IFSP that meets the requirements of the RI Regulations 314-319, and 322-323 of these regulations may serve as the IEP of the child if using that plan as the IEP is-
 - (i) Consistent with State policy; and
 - (ii) Agreed to by the agency and the child's parents.
- (2) In implementing the requirements of paragraph (4) of this section, the LEA shall-
 - (i) Provide to the child's parents a detailed explanation of the differences between an IFSP and an IEP; and
 - (ii) If the parents choose an IFSP, obtain written informed consent from the parents.

RI Regs. p.38

VI.2-C

If it is decided to develop an IFSP for the child aged 3-5 instead of an IEP, who would be on the Team to develop the IFSP?

RI Regulations, as noted above, require that if it is decided to develop an IFSP for a child aged 3-5 it must be consistent with state policy, i.e. state policy for developing IEPs and the content of IEPs. Therefore the IFSP must, at the least, have all of the team members required of an IEP Team. Refer to question IV-1 in Chapter 4 for a list of members.

VI.2-D

In developing goals for a child aged three (3) through five (5) what standards would be used to reference access and opportunity within the general education curriculum?

For children with disabilities of kindergarten or first grade age, the IEP team should reference the standards and curriculum benchmarks for those grade levels. For children age three to age five, the evaluations and IEPs should reference the developmentally appropriate activities for these age groups. *"Appropriate activities" in this context refers to age relevant developmental abilities or milestones that typically developing children of the same age would be performing or would have achieved.* (Federal Register question 1, p.12471). The standards for the four year old group should be completed by the Rhode Island Department of Education by the 2001-2002 academic year. The standards for the three years should follow thereafter. For a copy of these standards please contact the Rhode Island Department of Education.

300.347

Content of the IEP.

- (a) General. The IEP for each child with a disability must include-
 - (1) A statement of the child's present level of educational performance, including –
 - (i) How the child's disability affects the child's involvement and progress in the general curriculum (i.e., the same curriculum as for nondisabled children); or
 - (ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;
 - (2) A statement of measurable annual goals, including benchmarks or short-term objectives, related to –

- (i) Meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum (i.e., the same curriculum as for nondisabled children), or for preschool children, as appropriate, to participate in appropriate activities; RI Regs. p.42

VI.2-E

Who would serve as the regular education teacher on the IEP Team for children with disabilities aged 3 through 5 who are receiving special education services?

If the district provides regular education preschool services to nondisabled children, the regular education teacher from the preschool would serve as the child's regular education teacher. If the district does not provide preschool services to nondisabled children, the regular education teacher could be a preschool teacher from the community preschool. The kindergarten teacher would be the regular education teacher for a child of kindergarten age.

VI.2-F

If the child with a disability is in a school-based, integrated preschool class taught only by one teacher who is certified in both regular and special education, who should be the regular education and special education teacher at the IEP meeting?

The teacher of the class is considered a special education teacher even though s/he is certified in both areas. If the child is of kindergarten age the regular education teacher could be a kindergarten teacher in that building. If the child is of preschool age the teacher could be a preschool teacher from the district or community preschool.

VI.3

504 Plans.

VI.3-A

Would a student with an IEP also have a 504 Plan?

A student who is eligible as a student with a disability under IDEA would be considered "handicapped" under Section 504. The evaluation process that determined that the student met the eligibility criteria for one of the special education categories under IDEA would also provide the documentation to verify that the person has a physical or mental impairment that substantially limits one or more of his/her major life activities, has a record of such impairment, or is regarded as having such an impairment. Thus school age children would have an IEP.

A family may also request a 504 Plan, but this is not necessary since the IEP must describe everything that is required in a 504 Plan. It also requires a number of items that are not required in a 504 plan. For a complete listing of the content of an IEP please refer to question IV-4-A in Chapter 4. Some IEP Teams do like to develop a 504 Plan, in addition to the IEP, for students transitioning to postsecondary education or a job. Since postsecondary students will have a 504 Plan instead of an IEP, these teams feel the 504 Plan assists the postsecondary school, agency, or workplace, and better identify the modifications or related services the young adult would need.

A student may not be eligible under the requirements for IDEA, but still be deemed eligible under 504, since 504 does not require that the student meet the criteria for the disability category. The criteria for eligibility under Section 504 was defined in the preceding paragraph

For a more complete discussion of IDEA and Section 504, please refer to the document *Section 504 of the Rehabilitation Act of 1973: A Guide for Parents and School Districts (1998)* distributed by the Rhode Island Technical Assistance Project.